

**CAYMAN ISLANDS MONETARY  
AUTHORITY**

**ANNUAL REPORT  
1 JULY 2006 – 30 JUNE 2007**



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(CI\$1=US\$1.20)*

**Cayman Islands Monetary Authority**

PO Box 10052

80e Shedden Road

Elizabethan Square

Grand Cayman KY1-1001

CAYMAN ISLANDS

Phone - General Office: 345-949-7089

Fax: 345-949-2532

Website: [www.cimoney.com.ky](http://www.cimoney.com.ky)

## ***“Our Mission...”***

“As the primary financial services regulator our mission is to enhance the economic wealth and reputation of the Cayman Islands by fostering a thriving and growing, competitive, and internationally recognised financial services industry through appropriate, responsive, cost-effective and efficient supervision and a stable currency.”

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# **MANAGING DIRECTOR'S STATEMENT**

## **STATEMENT BY MANAGING DIRECTOR MRS CINDY SCOTLAND**

Overall growth in Cayman Islands Monetary Authority-regulated financial services continued strong during the 2006-07 fiscal year. This growth was again led by investments and securities and insurance entities, which saw increases of 16 percent and 4.6 percent, respectively, in numbers authorized, compared to the previous year.

Growth in fiduciary services licences was a more modest three percent but was indicative of sustained interest by wealthy private clients in utilizing Cayman's restricted trust company structure. Like many other jurisdictions, Cayman saw a decline in licence numbers in the banking sector. The four percent reduction was, however, lower than the six percent decline the previous year. The reduction in numbers was also counteracted by the increased strength of licensees, as measured by total external assets and liabilities, each of which jumped by approximately 29 percent over 2005-06.

### *Contribution to government*

Another indicator of the industry's growth is the amount of government revenue generated. CIMA collected CI\$60.3 million (US\$73.5m) in financial services sector fees on behalf of the Government for the financial year ended 30 June 2007. This represents an increase of over eight percent on the CI\$55.7 (US\$67.9m) for the previous year. In addition, we will contribute to the Government approximately CI\$6 million (US\$7.3m), which we realized as operating surplus for the year. This represents an increase of three percent over 2005-06.

The growth and increasing complexity of financial services placed ever-increasing demands on CIMA during the year under review. Our ability to maintain a high standard of regulation while fulfilling our monetary, cooperative and advisory functions not only speaks of the calibre and dedication of the people of CIMA, but of the strength of the relationships that we have built with the private sector and with the Government.

### *Boosting licensee soundness, consumer protection, streamlining regulation*

During the year, CIMA developed and implemented a range of rules and guidance to enhance soundness of licensee operations, to streamline the regulatory process, and to better protect consumers. Several of these formalized existing practice and brought Cayman in line with changes in international standards.

Measures covering internal controls and business continuity management for all licensees; risk management and physical presence requirements for banks; capital adequacy for Class B insurers (insurers writing non-domestic business), and licence cancellation procedures for company managers and corporate service providers were included. We expanded the *Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands* with the addition of sector specific guidance for insurers and for investments and securities entities.

Amendments to the Banks and Trust Companies, Insurance, and Mutual Funds laws, implemented in late 2006 and which we helped to draft, contained provisions for increased protection of depositors, policy-holders, beneficiaries and retail investors and extended CIMA's regulatory powers. These and other provisions in the laws were recommended by the CIMA-chaired public-private sector working groups that reviewed the legislative framework in the prior year.

On the whole, licensees typically demonstrated compliance with applicable guidance and legislation, were generally appropriately capitalised and offered relatively few prudential issues during 2006-07. We took seven formal enforcement actions during the year, compared to 13 in 2005-06.

*Strengthening supervisory capacity / increasing efficiency*

There was increased focus on developing strategies to ensure we maintain adequate supervisory capacity as the industry continues to grow. Our licensee risk rating exercise, the implementation of E-reporting for funds, our completion of the full Basel II impact study and assessment and our subsequent decision to implement options under the Basel II framework are among the measures to increase our efficiency and maximise resources. These initiatives complemented our efforts to build up our staff numbers.

*Dialogue with industry and international involvement*

We continued our active engagement and consultation with the respective industry sectors by hosting and attending industry meetings and luncheons. These forums remain valuable for keeping abreast of private sector concerns and determining practical approaches to resolving regulatory issues.

We also maintained involvement with international regulatory groups such as the International Association of Insurance Supervisors and Overseas Group of Banking Supervisors and continued to pay close attention to initiatives of international standard setters and to take appropriate action.

Our successful negotiation with the Jersey Financial Services Commission for official recognition of Cayman's AML/CFT legislation, and the Commission's addition of Cayman to its list of countries and territories with equivalent anti-money laundering frameworks was an example of the value of CIMA's international participation and engagement of overseas regulatory counterparts. Our participation in a Cayman Government delegation to Washington was another valuable opportunity.

CIMA was integrally involved in preparing for the CFATF assessment in June, and in subsequent discussions with the assessors. Preparations are being made for the IMF assessment in 2008.

*Conclusion*

The Cayman Islands Monetary Authority completed 10 years of operation during the year under review. I therefore view our performance this year as not only a reflection of our progress in one year, but of the strides we have made over the decade. While there is always work to be done, I believe it is fair to say we have lived up to our mission and have laid a solid foundation on which to build the next decade.

*Cindy Scotland*



## **SECTORAL REVIEW**

*The Cayman Islands economy has continued to benefit from the growth and sound operation of the financial industry regulated by the Monetary Authority, though the experience has varied from one sector to another. Industry performance is reviewed in the following section.*

# SECTORAL REVIEW: BANKING & RELATED SERVICES

## SNAPSHOT

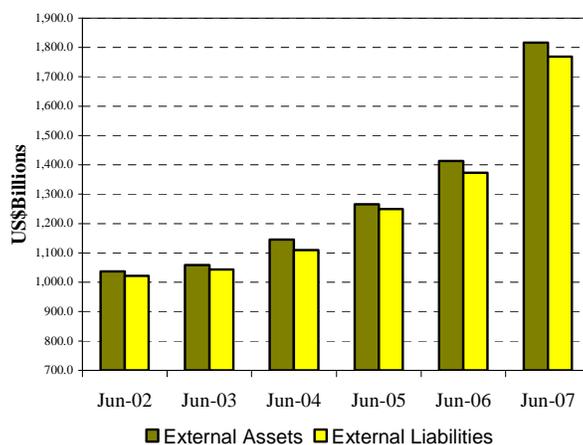


Fig. 1: Total Value of Assets and Liabilities of Cayman Islands Bank Licensees, 2002-07

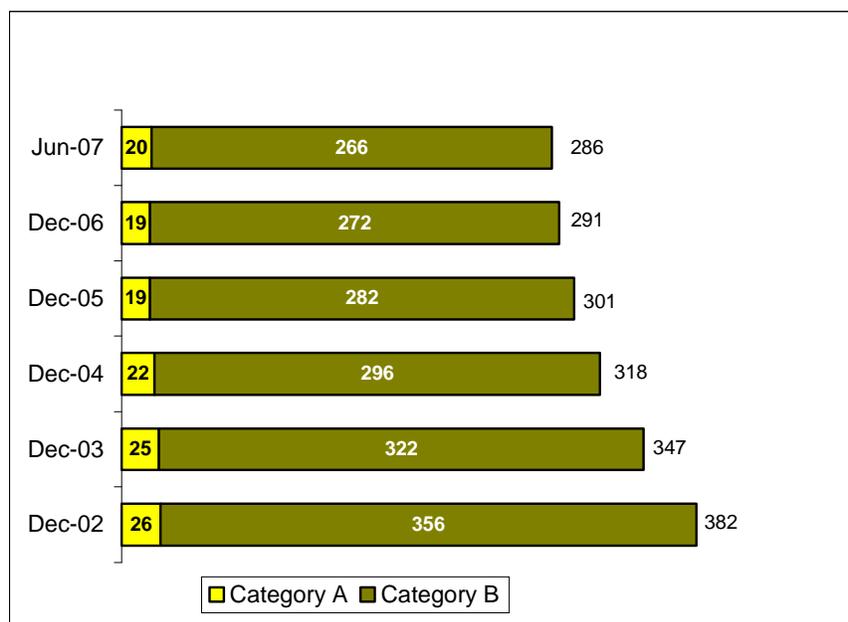


Fig. 2: Active Cayman Islands Bank Licensees, 2002-07

## BANKING

### Industry Trends

While restructurings, consolidations and rationalisation of banking group activities worldwide during the 2006-07 fiscal year continued to drive the decline in the number of Cayman-licensed banks, the jurisdiction maintained its prominence as an international banking centre, ranking as the fifth largest in the world with regards to total liabilities and sixth with respect to total assets.

As at 30 June 2007 there were 283 institutions holding banking licences in the jurisdiction. These comprised 20 Category A licensees and 263 Category B licensees<sup>1</sup>.

**Table 1: Bank Licensing Activity 2006-2007, with 04-05 and 05-06 Comparisons**

Licence Type	Active as at 30 June 2005	Active as at 30 June 2006	Terminated 1 Jul. 2006 - 30 June 2007	Issued 1 Jul. 2006 - 30 June 2007	Active as at 30 June 2007	Forecasted for 30 June 2007
Category A Bank & Trust	22	19	1	2	20	17
Category B Bank & Trust	287	272	18	8	262	263
Cat B Bank & Trust (Restricted)	3	4	3	0	1	1
<b>Total</b>	<b>312</b>	<b>295</b>	<b>22</b>	<b>10</b>	<b>283</b>	<b>281</b>

The June 2007 figure showed 12 fewer banks than 30 June 2006, representing a four percent decline. However, during June 2007 five new licences were issued and a few other applications were pending. The jurisdiction continues to attract top tier banking groups from around the world, including Europe and North America, and, at the end of the reporting period, was hosting branches or subsidiaries of over 40 of the world's top 50 banks as ranked by total assets.

International assets booked through banks in the Cayman Islands stood at US\$1.81 trillion at June 2007 as compared to US\$1.4 trillion at June 2006. Liabilities rose to US\$1.77 as at June 2007, up from US\$1.3 trillion as at June 2006.

#### *The Domestic Market*

The domestic market continued to be serviced by six retail banks: Butterfield Bank (Cayman) Limited, Cayman National Bank, Fidelity Bank (Cayman) Limited, FirstCaribbean International Bank (Cayman) Limited, Royal Bank of Canada, and Scotiabank & Trust (Cayman) Ltd. Four are subsidiaries of international banking groups, one is a branch of an international banking group, and the other is owned by a financial group headquartered in the Cayman Islands.

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<sup>1</sup> The Category A banking and trust licence allows holders to operate both in the international and domestic market. The Category B licence permits international banking business and limited domestic activity.

HSBC Financial Services (Cayman) Limited was granted approval on 19 March 2007 to carry out retail banking business. The bank has not yet commenced offering these services as it is in the process of implementing the required infrastructure. It is not expected that the bank will be in a position to offer expanded products and services relating to the retail market until the end of 2007 or early 2008.

Generally, the banking sector remained well capitalized, with quality performing assets. The risk adjusted capital adequacy ratio for the five locally incorporated banks having a capital adequacy requirement was an average of 20.34 percent at June 2007. Individual capital adequacy ratios ranged from 14.9 to 33 percent. Table 2 shows deposit, loan and total asset figures for the six retail banks.

**Table 2: Aggregate Retail Bank Figures, 2006 & 2007 (In \$US)**

Year	Total Assets	Total Loans	Total Deposits
June 2006	\$ 10.7 billion	\$ 4.5 billion	\$ 9.5 billion
June 2007	\$ 13.4 billion	\$ 5.5 billion	\$ 11.4 billion

The CI Bankers Association (CIBA) completed and released The Banking Code, which it had begun developing during the year. The document is based on the British Bankers Association's code and documents the standard of customer service and information to which the institutions will adhere. CIMA provided assistance to CIBA in developing the code.

### Jurisdictional Comparisons

As illustrated in Table 3, over the five-year period, the number of banks licensed in the listed jurisdictions declined noticeably from the numbers reported in 2002. However, during 2006 Panama demonstrated an eight percent increase.

**Table 3: Bank Licence Numbers in Selected Jurisdictions, 2002-2006**

Jurisdiction	2002	% Change ('03 v '02)	2003	% Change ('04 v '03)	2004	% Change ('05 v '04)	2005	% Change ('06 v '05)	2006
Cayman	383	↓ 9%	349	↓ 10%	315	↓ 2%	310	↓ 7%	288
Bahamas	193	↓ 10%	174	↓ 7%	162	↓ 2%	158	↓ 13%	137
Hong Kong	224	↓ 4%	215	↓ 3%	208	↓ 3%	202	-	202
Jersey	59	↓ 7%	55	↓ 7%	51	↓ 2%	50	↓ 1%	45
Luxembourg	177	↓ 5%	169	↓ 2%	165	↓ 5%	157	↓ 3%	155
Panama	82	↓ 7%	76	↓ 4%	73	0%	73	↑ 8%	79
Singapore	N/A	-	162	-	N/A	-	158	↓ 1%	157
Switzerland	356	↓ 4%	342	↓ 1%	338	↑ 1%	342	↓ 1%	336

### MONEY SERVICES, CO-OPERATIVES AND BUILDING SOCIETIES

The number of licences in effect for money services business in the Cayman Islands held steady at seven during the year. Overseas remittances through these entities for 2006-07 were some US\$209 million, compared to US\$210 million for the previous year. The number of licensees under the Cooperative Societies Law (2001 Revision) and the Building Societies Law (2001 Revision) also remained stable, at two and one respectively.

# SECTORAL REVIEW: FIDUCIARY SERVICES

## SNAPSHOT

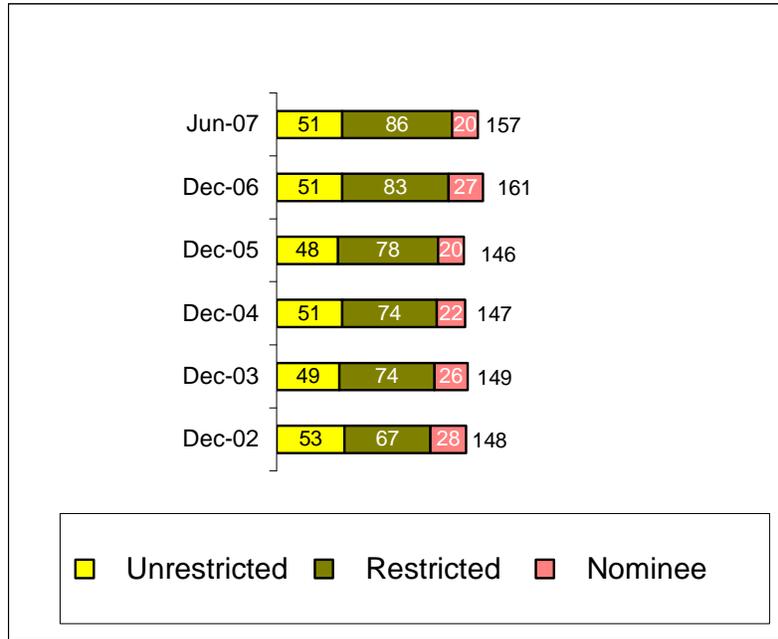


Fig. 3: Active Cayman Islands Trust Licences by Category, 2002-07

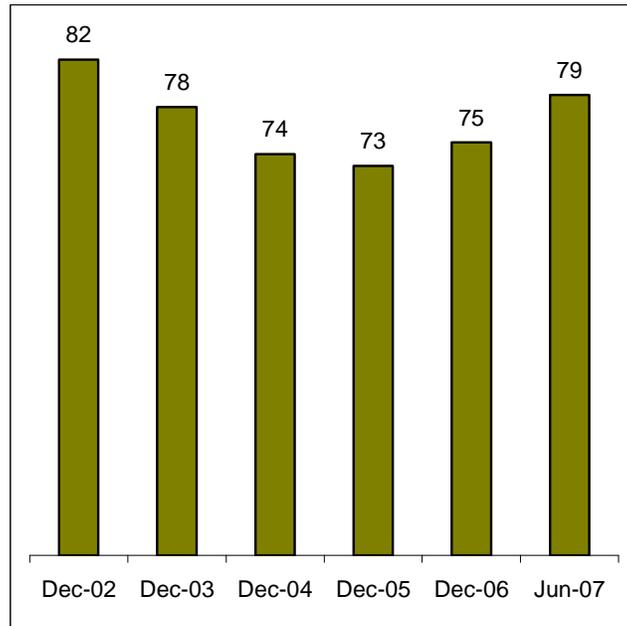


Fig. 4: Active Company Manager and Corporate Service Provider Licences, 2002-07

## FIDUCIARY SERVICES

### Industry Trends

At 30 June 2007 there were 236 institutions holding trust<sup>2</sup>, company manager<sup>3</sup> and corporate service provider<sup>4</sup> licences, an overall increase of approximately three percent over the 229 licences at 30 June 2006.

**Table 4: Trust & Company Management Licensing Activity<sup>5</sup> 2006-207, with 04-05 and 05-06 Comparisons**

Licence Type	Active as at 30 June 2005	Active as at 30 June 2006	Terminated 1 July 2006 – 30 June 2007	Issued 1 July 2006 – 30 June 2007	Active as at 30 June 2007	Forecasted for 30 June 2007
Trust Company - Restricted	77	81	1	6	86	78
Trust Company - Unrestricted	49	52	2	1	51	51
Nominee Trust	20	21	7	0	20	20
Company Manager	70	70	4	6	72	69
Corporate Service Provider	5	5	0	2	7	5
<b>Total</b>	<b>221</b>	<b>229</b>	<b>14</b>	<b>15</b>	<b>236</b>	<b>223</b>

There continues to be a steady net upward trending in the number of restricted trust licences. This is attributable to the continued interest by industry in using the private trust company structure to create solutions for the varied wealth management demands of wealthy private clients. The total number of restricted trust licences increased by approximately six percent to 86 as at 30 June 2007, from 81 as at 30 June 2006.

The total number of unrestricted trust and nominee trust licences each had a net fall of one for the 2006-07 year. It is anticipated that there will be very little growth, and likely some contraction, in nominee licences over the 2007-08 year.

Corporate service licences were granted in respect of two newly created local law firms. The licences enabled the firms to provide company formation and registered office services in support of the legal services that are being offered by the respective law practices.

<sup>2</sup> Comprises three licence categories: Trust – a licence that allows the holder to carry on the business of acting as trustee, executor or administrator; Trust (Restricted) – allows the holder to undertake trust business only for persons listed in any undertaking accompanying the application for the licence; Nominee Trust – a licence granted for the holder to act solely as the nominee of a trust licensee, being the wholly-owned subsidiary of that licensee.

<sup>3</sup> A Company Manager licence allows the holder to provide company management services as listed in section 3(1) of the Companies Management Law (2003 Revision) or any other corporate services as may be prescribed under that section.

<sup>4</sup> Corporate Service Provider licence allows the holder to provide only the corporate services specified in section 3(1)(a) through (e) of the Companies Management Law (2003 Revision).

<sup>5</sup> Excludes entities retaining banking and trust licences

## Jurisdictional Comparisons

Tables 5 and 6 show the number of active trust and corporate services licences in Cayman and other international financial centers from 2001 and 2006.

**Table 5: Trust Licence Numbers in Selected Jurisdictions, 2002-2006**

Jurisdiction	2002	% Change ('03 v '02)	2003	% Change ('04 v '03)	2004	% Change ('05 v '04)	2005	% Change ('06 v '05)	2006
<b>Cayman</b>	385	↓3%	373	↓5%	354	↓1%	352	↓2%	344
<b>BVI</b>	178	↑15%	204	↑16%	236	↓10%	212	↓5%	201
<b>Bahamas</b>	221	↓6%	208	↓5%	197	↓3%	191	↓1%	190
<b>Bermuda</b>	N/A	-	N/A	N/A	N/A	-	33	-	33
<b>Gibraltar</b>	78	0%	78	↑3%	80	↑3%	82	↑6%	87
<b>Guernsey</b>	N/A	-	202	↓1/2%	201	↓1%	199	↑3%	205
<b>Isle of Man</b>	N/A	-	N/A	-	N/A	-	18	↑428	95
<b>Jersey*</b>	245	↑1%	248	↓23%	190	↓3%	184	↑5%	193
<b>Panama</b>	19	↓12%	17	↓12%	15	↓7%	14 (Jun'05)	-	N/A
<b>Turks and Caicos</b>	22	-	N/A	-	-	-	14	-	N/A

\* Jersey's figures include both trust and company business licensed. Cayman's figures include trust companies that also hold a banking licence and are thus supervised by the Banking Division

**Table 6: Company Services Licence Numbers in Selected Jurisdictions, 2002-2006**

Jurisdiction	2002	% Change ('03 v '02)	2003	% Change ('04 v '03)	2004	% Change ('05 v '04)	2005	% Change ('06 v '05)	2006
Cayman	78	↓6%	73	↑1%	74	↓5%	70	↑3%	72
BVI	18	0%	18	↑6%	19	↑5%	20	0%	20
Bahamas	N/A	-	N/A	-	N/A	-	N/A	-	N/A
Bermuda	N/A	-	N/A	-	N/A	-	N/A	-	N/A
Gibraltar*	78	0%	78	↑3%	80	↑3%	82	↑6%	87
Guernsey	N/A	-	N/A	-	N/A	-	N/A	-	N/A
Isle of Man	N/A	-	161	-	N/A	-	176	↓2%	173
Jersey**	245	↑1%	248	↓23%	190	↓3%	184	-	N/A
Panama	2	0%	2	↑150%	5	↑40%	7	-	N/A
Turks and Caicos	30	-	N/A	-	N/A	-	N/A	-	N/A

\* Gibraltar's figures are a total of company management and professional trustee licences that were issued as of the specified year.

\*\*Jersey's figures include both trust and company business licenses.

# SECTORAL REVIEW: INSURANCE

## SNAPSHOT



Fig. 5: Class B (Captive) Insurance Companies, 2002-07

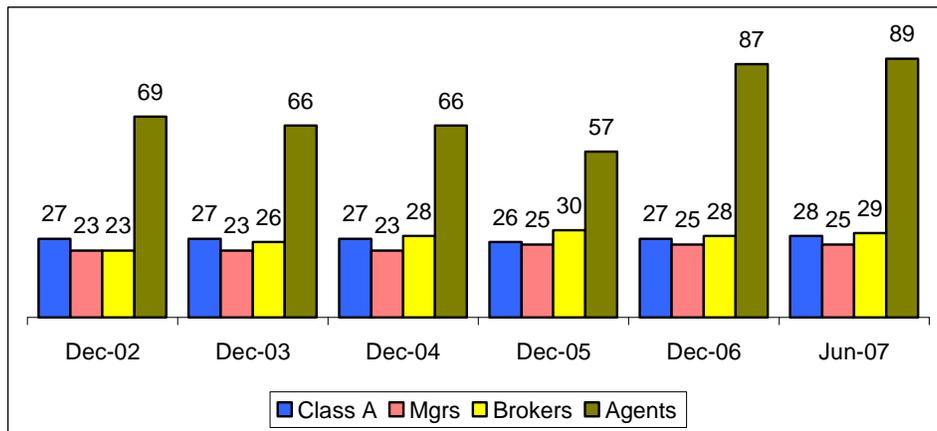


Fig. 6: Cayman Islands Domestic Insurance Licences, by Category, 2002-07

## INSURANCE

### Industry Trends

There were 923 insurance licensees under regulation as at 30 June 2007. Of these, 752 were class B (captive<sup>6</sup>) licensees. Licensing activity during the financial year fell within the expected range for all categories<sup>7</sup> other than agents, where considerable growth was evidenced. (See “Domestic” below.) A full listing of all entities licensed under the Insurance Law can be found on the Authority’s website at [www.cimoney.com.ky](http://www.cimoney.com.ky).

**Table 7: Insurance Licensing Activity 2006-07, with 04-05 and 05-06 Comparisons**

Licence Type	Active as at 30 June, 2005	Active as at 30 June 2006	Terminated 1 July 2006 – 30 June 2007	Issued 1 Jul 2006 – 30 June 2007	Active as at 30 June 2007	Forecasted as at 30 June 2007
Class A	27	27	1	2	28	28
Class B	710	737	34	49	752	740
Insurance Managers	23	25	2	2	25	24
Brokers	29	27	1	3	29	26
Agents	57	66	3	26	89	68
<b>TOTAL</b>	<b>846</b>	<b>882</b>	<b>41</b>	<b>82</b>	<b>923</b>	<b>886</b>

#### *Captives*

The market continued to show a high level of activity in 2006-07, with 49 new captive licences issued and 34 cancelled, the latter being the result of the Authority’s cancellation of licences that have been inactive for a period of time. Among the 752 captives were 120 segregated portfolio companies under the Companies Law (2004 Revision), with a total of 481 segregated portfolios operating within them.

The most popular region of origin of Cayman captives at fiscal year-end was North America, from which 90 percent of captives originate. This was followed by Latin America and the Caribbean: 3.5 percent; Africa, Asia and the Middle East: 1.3 percent; Europe: 1.0 percent; rest of the world: 3.6 percent.

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<sup>6</sup> Insurance companies operate within the Cayman Islands as Class A Insurers (writing domestic business) or Class B Insurers (writing non-domestic business only and commonly known as captive insurance companies).

<sup>7</sup> In addition to Class A and B insurers licences, licences are granted in the following categories: Insurance Manager – defined in section 2 of the Insurance Law (2007 Revision) as “a company operating in and from within the [Cayman] Islands which provides insurance expertise to and for insurers and which has in its bona fide employment a person who” fits the criteria outlined in section 2; Insurance Agent - “a person (not being an insurer) who solicits directly, or through representatives, advertising or other means, domestic business on behalf of not more than one insurer,” and Insurance Broker - “a person (not being an insurer) who negotiates directly or through representatives or other means, contracts of insurance or of reinsurance on behalf of more than one insurer, or for placement with insurers or reinsurers” (Insurance Law (2007 Revision) s.2).

Despite the recent general softening in the global insurance marketplace, it is anticipated that new licensing activity for calendar year 2007 will be only slightly down from 2006. Continuing demand for the use of captives is expected primarily in the areas of medical malpractice, commercial auto, workers compensation and property coverage. In the Cayman Islands, 24 new class B licences were issued between January and June (compared to 30 in the same period of 2006). These figures are in line with expectations, as historically the first two quarters of a calendar year yield lighter licensing activity than the latter two quarters.

In particular, changes to the Florida Hurricane Catastrophe Fund have not had the impact on the reinsurance or capital markets as expected. Despite Florida insurance legislation being amended earlier this year to enable the Florida Hurricane Catastrophe Fund to offer reinsurance coverage for possible losses up to US\$28 billion in one year, US\$16 billion more than the state previously covered, there is little evidence that the traditional capacity in the Florida reinsurance market (predominantly London market and Bermuda), has sought other catastrophe opportunities. These opportunities were considered likely to be at the expense of the capital markets and as such, the demand for cat bonds (in which Cayman is the leading jurisdiction) and sidecars was expected to diminish. To date this has not materialized and the demand for cat bonds remains strong. In the fourth quarter a further seven cat bond SPVs were licensed in the Cayman Islands.

#### *Domestic*

There were 28 active class A licences at the fiscal year's end, three having been terminated and two issued during the period. Domestic insurance companies recorded a combined net earned premium of \$155.5 million for the calendar year ending 31 December 2006, with combined net income of \$66.3 million for the same period. Further details are available on the CIMA website.<sup>8</sup>

The 26 agent licences issued during the fiscal year reflect additions to the sales force of eight companies (class A and broker licensees) and demonstrate the increased interest by those companies involved in the sale of life insurance in having a dynamic and growing sales force.

#### **Market developments**

Among the licences that CIMA granted during the year under review was a licence for the Caribbean Catastrophic Risk Insurance Facility. The licence was granted on 23 May 2007. The facility has been established to provide parametric insurance to CARICOM (Caribbean Community) member and associate member countries in respect of windstorm and earthquake events.

The Cayman Islands is amongst the 17 CARICOM countries participating in the insurance programme. The facility is being supported by donor contributions, initially from the UK Department for International Development, the Canadian International Development Agency and the World Bank, in conjunction with participation fees and insurance premiums from the participating CARICOM

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<sup>8</sup> <http://www.cimoney.com.ky/section/regulatoryframework/sub/default.aspx?section=ID&id=61>

countries. Sagicor Insurance Managers Ltd. (which holds an insurance managers licence) has been appointed as the insurance manager of the licensee.

## Jurisdictional Comparisons

**Table 8: Captive Insurance Licence Numbers in Selected Jurisdictions, 2002-2006**

Jurisdiction	2002	% Change ('03 v '02)	2003	% Change ('04 v '03)	2004	% Change ('05 v '04)	2005	% Change ('06 v '05)	2006
Cayman	600	↑ 7%	644	↑ 7%	693	↑ 5%	733	↑ 1%	740
Barbados	N/A	-	N/A	-	N/A	-	242	↓ 3%	235
Bermuda	1602	↓ 19%	1284	↓ 5%	1266	↑ 1%	1281		989 **
BVI	246	↑ 25%	309	↑ 11%	346	↑ 10%	381		383 #
Guernsey	N/A		383	↓ 1%	379	↓ 1.8%	372	↑ 2%	381
Hawaii	N/A		N/A		N/A		158	↑ 1%	160
S. Carolina	27	↑ 120%	60	↑ 60%	99	↑ 11%	110	↑ 33%	146
Vermont	438	↑ 15%	507	↑ 3%	524	↑ 3%	542	↑ 4%	563

Source: *BusinessInsurance*, 12 March 2007 edition

\*\* 2006 is the first year Bermuda has released data specifically regarding their captives alone. Previously the figure used was the combined position for all licence classes.

# *BusinessInsurance* estimate

N/A – Data not available

# SECTORAL REVIEW: INVESTMENTS & SECURITIES

## SNAPSHOT

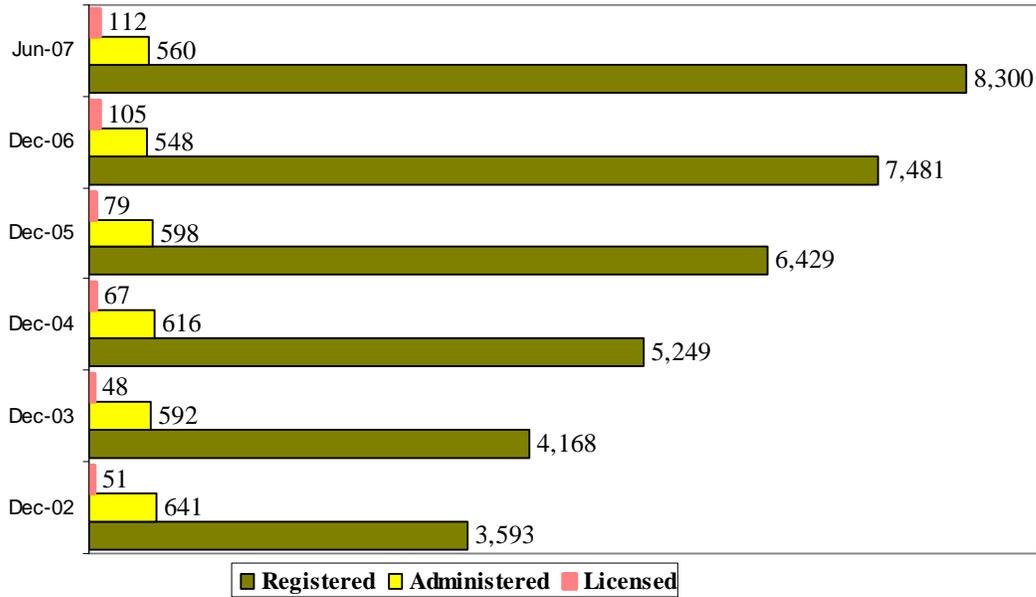
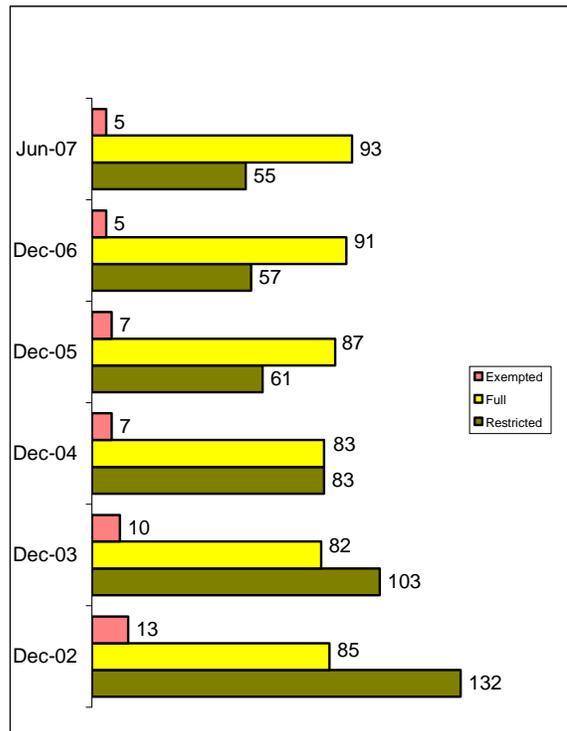


Fig. 7: Active Mutual Funds, by Category, 2002-07



**Fig. 8: Active Mutual Fund Administrators, by Category, 2002-07**

## INVESTMENTS AND SECURITIES

### Industry Trends

The absence of a prescriptive regime mandating where professional fund service providers should be located, the depth of relevant professional services and expertise available, and the relatively swift turnaround time in the establishment of funds in the Cayman Islands continues to drive impressive growth in Cayman regulated funds.

This growth was evidenced during the 2006-07 fiscal year by the authorization of an average of 37 funds per week, for a total of 1,903 new funds authorized during the fiscal year. (See Table 9.) Among these funds was a registered fund having a minimum initial investment of \$100 million per investor – the largest minimum initial investment for a section 4(3) type fund.<sup>9</sup>

With terminations during the fiscal year amounting to 764, the total number of funds active as at 30 June 2007 was 8,972. This represents an increase of 14 percent over the 7,845 at June 2006. While the 764 terminations were higher than the 575 terminations in fiscal year 2005-06, the increase is merely the demonstration of a maturing market, where investors do not tolerate poor performance, where some start-ups were unable to attract sufficient capital to commence trading and where other funds reached the end of their useful life. Additional factors contributing to the heightened numbers include, the division itself cleaning up a number of inactive funds prior to the introduction of the E-reporting project, and industry making every effort to terminate inactive/dormant funds to avoid 2007 annual fees.

The five percent decline in the number of active administered funds at the end of the year (587 as at 30 June to 560 at 30 June 2007) was to be expected due to the amendments in the Mutual Funds Law in November 2006. One change was to the definition of "carrying on mutual fund business" in the Cayman Islands. As a result, foreign funds are no longer required to be registered simply because they are being administered in the Islands by a licensed mutual fund administrator.

The Authority issued licences for 10 new fund administrators<sup>10</sup>, bringing the total to 153 at 30 June 2007, one less than the same time the previous year. The rate of authorization of mutual fund administrators has continued to decline since the introduction of the Securities Investment Business Law (SIBL). This is because many

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<sup>9</sup> A fund exempted from the requirement to be licensed, under section 4(3) of the Mutual Funds Law (2007) Revision. Funds are authorized in the following categories: *Administered Fund* – A mutual fund whose principal office is provided by a CIMA licensed administrator that ensures that the fund is run in a fit and proper manner. This type of fund is not required to have a licence but must be authorized by CIMA. *Licensed Fund* – A mutual fund granted a licence to carry on business in or from the Cayman Islands. The types of funds which must be licensed and the criteria for granting licences are set out in the Mutual Funds Law (2007) Revision. A licensed fund must have either a registered office in the Islands or, if a unit trust, a trust company licensed under the Banks and Trust Companies Law as its trustee. *Registered Fund* – A mutual fund that either has a US\$100,000 minimum subscription or has its equity interest listed on a CIMA-recognised stock exchange. This type of fund is not required to have a licence but must be authorized by CIMA. See page 53, for an explanation of Cayman's regime for mutual funds and securities investment business.

<sup>10</sup> A person authorized to conduct mutual fund administration in or from the Cayman Islands (i.e., manage (including to control all or substantially all the assets of a mutual fund) or to administer the mutual fund, to provide the principal office of the mutual fund in the Cayman Islands, or to provide the operator).

of the entities that would have fallen into the licensed mutual fund administrator category are now being registered as SIBL excluded persons<sup>11</sup> since they provide investment management and/or advisory services exclusively for sophisticated persons, which includes within its definition entities regulated by CIMA. The number of active SIBL entities stood at 1,617 at the end of the fiscal year, an increase of 31 percent over 2005-06. The number included 1,594 entities registered as excluded persons. This excluded person category has been a key part of the success of the mutual funds regime over the past few years.

During the year, the Authority granted approvals to eight new local auditors to conduct local audit sign-off. At 30 June 2007, there were 31 local auditors approved to conduct local audit sign-offs for mutual funds and mutual fund administrators in accordance with the Local Auditors Policy implemented in 2002.

While there is much international discussion on hedge funds regulations by the European Union and the US Senate, the Authority remains optimistic that the new fiscal year will be yet another success.

**Table 9: Fund and Securities Authorization Activity 2006-07, with 04-05 and 05-06 Comparisons**

Authorization Type	Active as at 30 June 2005	Active as at 30 June 2006	Issued 1 Jul 2006 – 30 June 2007	Terminated 1 Jul 2006 – 30 June 2007	Active as at 30 June 2007	Forecast For year ended 30 June 2007
<b>Funds</b>						
Registered	5842	7,161	1858	707	8300	8200
Administered	598	587	26	53	560	585
Licensed	87	97	19	4	112	85
<b>Total Funds</b>	<b>6527</b>	<b>7845</b>	<b>1903</b>	<b>764</b>	<b>8972</b>	<b>8870</b>
<b>Mutual Fund Administrators</b>						
Full	83	87	8	2	93	90
Restricted	70	60	2	7	55	55
Exempted	7	7	0	2	5	5
<b>Total Administrators</b>	<b>160</b>	<b>154</b>	<b>10</b>	<b>11</b>	<b>153</b>	<b>150</b>
<b>Securities Investment Business</b>						
Securities (Reg)	798	1209	391	6	1594	1400
Securities (Licence)	24	25	5	7	23	20
<b>Total SIBL</b>	<b>822</b>	<b>1234</b>	<b>396</b>	<b>13</b>	<b>1617</b>	<b>1420</b>

## Jurisdictional Comparisons

Jurisdiction	2002	% Change ('03 v '02)	2003	% Change ('04 v '03)	2004	% Change ('05 v '04)	2005	% Change ('06 v '05)	2006
Cayman	4285	↑12%	4808	↑23%	5932	↑20%	7106	↑14%	8134
Bahamas	706	0%	707	↑19%	838	↓15%	709	↑2%	723
Bermuda	912	↑12%	1022	↑12%	1149	↑3%	1182	↑10%	1302
BVI	1977	↓2%	1934	↑11%	2138	↑11%	2372	↑8%	2571
Dublin	981	↑1%	992	↓1%	987	↓2%	964	↓2%	941
Jersey	449	↑34%	602	↑38%	833	↑16%	965	↑20%	1157

**Table 10: Fund Numbers in Selected Jurisdictions, 2002-2006**

<sup>11</sup> The Securities Investment Business Law (2004 Revision) allows the granting of a licence for the carrying on of securities investment business, as defined in section 4 of the law. A SIBL Excluded Person is one who is exempt from holding a licence under the law.

**MONETARY  
REGULATORY  
COOPERATIVE &  
ADVISORY FUNCTIONS**

*The Cayman Islands Monetary Authority is charged with four functions.  
Developments related to these areas are reviewed in the following section.*

# MONETARY FUNCTIONS

## CURRENCY MANAGEMENT

The Monetary Authority, through its Currency Operations Division, is the sole issuing authority for Cayman Islands currency. The division is responsible for the issue, re-issue, and withdrawal of Cayman Islands currency notes and coins against the United States dollar, dealing with the local retail banks: Fidelity Bank, FirstCaribbean International Bank, Butterfield Bank International (Cayman) Ltd., Cayman National Bank, Scotiabank, and the Royal Bank of Canada. The division also administers the sale and redemption of numismatic coins to and from local and overseas collectors.

### **Currency Reserve**

Cayman Islands currency is issued on demand only against United States currency at the rate of one Cayman Islands dollar per 1.20 US dollars. It is repurchased on demand with US dollars at the same rate. The currency in circulation is backed by the currency reserve assets in accordance with section 32 of the Monetary Authority Law (2004 Revision) (MAL). The currency reserve assets are invested primarily in US treasury notes, US government agency issued discount notes and mortgage-backed securities through the Authority's external fund managers. The guidelines that the fund managers use in selecting investments are security of funds, liquidity of funds, and income, in that order.

At 30 June 2007, total currency reserve assets equalled \$103.7 million (unaudited) representing 136.1 percent of currency in circulation. By comparison, at 30 June 2006, total currency reserve assets stood at \$92.2 million, 130.7 percent of currency in circulation.

Revenue from currency reserve investments and from commission charged to banks for currency returned to the Authority for the period 1 July 2006 to 30 June 2007 totalled \$6.1 million. This represents a 22 percent increase over the \$5 million earned for the 2005-06 fiscal year, primarily as a result of the higher return on reserve investments resulting from higher U.S. interest rates.

### **Currency in Circulation**

At 30 June 2007 currency in circulation (excluding numismatic coins) stood at \$67.9 million in notes and \$8.3 million in coins, totalling \$76.2 million. This represents an 8.1 percent increase over the June 2006 figure of \$70.5 million. There is no immediate indication that currency in circulation will return to pre-Hurricane Ivan levels given the consequences of inflation and increased economic activities since Hurricane Ivan hit the Cayman Islands in 2004.

Total notes withdrawn from circulation and destroyed in the 2006-07 financial year equalled \$10.2 million compared to \$23.7 million in the previous year.

Fig. 9: Cayman Islands Currency in Circulation, by Month, 2003-07

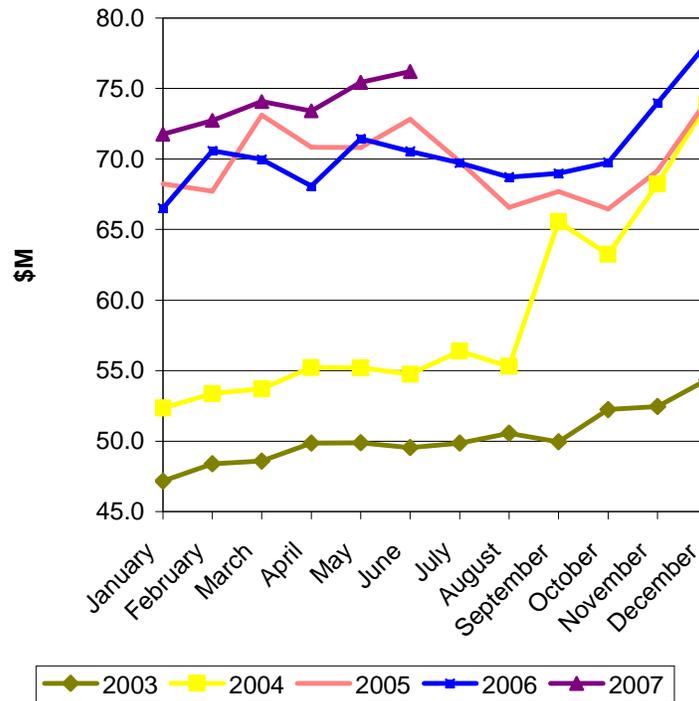


Table 11: Currency in Circulation at Fiscal and Calendar Year-end, 2003-07 (in CI\$m)

	2002	2003	2004	2005	2006	2007
30 June	46.2	49.5	54.8	72.8	70.5	76.2
31 December	51.6	54.3	74	74.2	78.2	

### New Currency

CIMA received approval from the Cabinet during the year to re-design the banknotes. A sub-committee, comprised of the Financial Secretary (or his delegate) and CIMA's Managing Director, Deputy Managing Director, Deputy Head of Currency, Senior Currency Officer and HR Manager was set up to deal with the re-design process.

CIMA commissioned the Royal Mint to produce a special numismatic coin issue in observance of CIMA's 10<sup>th</sup> anniversary. The issue comprises a gold \$10 coin and a silver \$5.

### Counterfeit Detection

The Authority's Currency Division provided ongoing assistance to the Financial Crime Unit (FCU) of the Royal Cayman Islands Police Service (RCIPS) with the analysis and verification of counterfeit currency seized. During the year, one person was convicted and sentenced to three years' imprisonment. In July 2007, another was convicted and sentenced to 18 months.

The table below gives a breakdown of the counterfeit banknotes withdrawn from circulation since 2004.

**Table 12: Recovered Counterfeit Banknotes as at 30 June 2007**

Denomination	2004	2005	2006	2007 (As at 30.6.07)
\$100	43	99	33	4
\$50	10	17	6	5
\$25	-	1	-	1
\$10	-	1	-	-
\$5	-	-	-	-
\$1	-	6	-	1
<b>Total No. of Notes</b>	<b>53</b>	<b>124</b>	<b>39</b>	<b>11</b>
<b>Total Dollar Value</b>	<b>\$4,800</b>	<b>\$10,791</b>	<b>\$3,600</b>	<b>\$676</b>

The Authority believes that educating the public on the security features of the banknotes is the best means of combating the counterfeit problem. In addition to the issuing of a joint press release with the FCU, the division distributed leaflets detailing the security features of genuine notes. In March, CIMA organised and staged a series of four half-day counterfeit detection seminars, featuring well-received presentations from the De La Rue counterfeit detection expert and the FCU.

Participants came from the retail banks, supermarkets, money remittance services, the RCIPS, Government departments, a few private businesses and CIMA. The De La Rue representative also facilitated a successful mini counterfeit detection course for CIMA's Currency staff and the RCIPS. This course covered the more in-depth forensic aspects of detecting counterfeits.

# REGULATORY FUNCTIONS

## THE REGULATORY REGIME

The framework for the Monetary Authority's regulation and supervision of financial services is made up of a number of elements. These include the applicable laws and regulations passed by the Government of the Cayman Islands; rules and statements of principle and of guidance issued by the Authority; and policies and procedures detailed in the *Regulatory Handbook* and other manuals.

Regulation and supervision are carried out in accordance with internationally accepted standards where these exist and are appropriate for the jurisdiction. The domestic laws and international standards under which the Cayman Islands Monetary Authority and regulated sectors operate are shown in Table 13 below.

Copies of all rules, statements of guidance and policies and procedures issued by the Authority are available on the CIMA website. The prudential standards issued during the 2006-07 fiscal year are listed in Table 14, page 26.

The Banking Supervision, Fiduciary Services, Insurance, and Investments and Securities divisions (collectively referred to as the supervisory divisions) are responsible for processing, and making recommendations on, applications for licences and other relevant authorizations for the provision of those financial services falling within their sectors. They are also responsible for the ongoing supervision of licensees/registrants, and make recommendations for enhancements to the supervisory regime where appropriate.

**Table 13: Framework Under Which the Cayman Islands Monetary Authority Operates**

Sector/ Entity type	CI Law	International Standards / Memberships
All	<ul style="list-style-type: none"> <li>• Monetary Authority Law (2004 Revision)</li> <li>• Proceeds of Criminal Conduct Law (2005 Revision)</li> <li>• Proceeds of Criminal Conduct (Amendment) Law, 2007</li> <li>• Money Laundering Regulations (2006 Revision)</li> <li>• Terrorism Law, 2003</li> <li>• Public Management and Finance Law (2005 Revision)</li> <li>• Companies Law (2004 Revision), and amendment</li> </ul>	<p><b>Standards:</b></p> <ul style="list-style-type: none"> <li>• Financial Action Task Force Forty Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing</li> </ul>
Banks, trusts, money services businesses, credit unions, building societies, corporate services providers, company managers	<ul style="list-style-type: none"> <li>• Banks and Trust Companies Law, 2007</li> <li>• Money Services Law (2003 Revision), and regulations</li> <li>• Cooperative Societies Law (2001 Revision), and regulations</li> <li>• Building Societies Law (2001</li> </ul>	<p><b>Standards:</b></p> <ul style="list-style-type: none"> <li>• Basel Core Principles for Effective Banking Supervision<sup>12</sup></li> <li>• Offshore Group of Banking Supervisors (OGBS) Trust and Company Service Providers Working Group Statement of Best Practice produced by the of the Offshore Group of Banking Supervisors<sup>13</sup></li> </ul>

<sup>12</sup> As promulgated by the Basel Committee on Banking Supervision

<sup>13</sup> The working group comprised representatives of various offshore financial centres, the FATF, IMF and OECD as well as representatives of four G7 countries. The Statement was disseminated to the

	<ul style="list-style-type: none"> <li>Revision)</li> <li>Development Bank Law (2004 Revision)</li> <li>Companies Management Law (2003 Revision), and regulations</li> </ul>	<b>Memberships:</b> <ul style="list-style-type: none"> <li>OGBS</li> <li>Caribbean Group of Banking Supervisors</li> <li>Association of Supervisors of Banks of the Americas.</li> </ul>
Insurance companies, managers, brokers, agents	<ul style="list-style-type: none"> <li>Insurance Law (2004 Revision)</li> <li>Insurance (Amendment) Law 2006</li> </ul>	<b>Standards:</b> <ul style="list-style-type: none"> <li>International Association of Insurance Supervisors (IAIS) Core Principles of Insurance Regulation<sup>14</sup></li> </ul> <b>Memberships:</b> <ul style="list-style-type: none"> <li>IAIS</li> <li>Offshore Group of Insurance Supervisors<sup>15</sup></li> </ul>
Mutual funds, fund administrators, securities investment businesses (market makers, broker-dealers, securities arrangers, securities advisors and securities managers)	<ul style="list-style-type: none"> <li>Mutual Funds Law (2003 Revision)</li> <li>Mutual Funds (Amendment) Law, 2006</li> <li>Securities Investment Business Law (2004 Revision)</li> </ul>	

## SUPERVISION

Supervision of licensees is carried out off-site and on-site. Off-site supervision is continuous, involving the analysis of quarterly prudential returns and annual audited statements, supplemented with prudential meetings. On-site supervision involves limited scope and full-scope inspections both in the Cayman Islands and overseas. The objectives of the inspection process are to understand the licensee’s business activities and operating environment, to detect problems of compliance with the relevant laws and/or regulations, and to gather information on matters identified as requiring policy considerations.

Because of the nature of investments and securities business, the regulatory regime for this sector differs in some respects from the regulation of the other sectors. The regime is explained in more detail in Appendix 2 under Cayman Islands Mutual Funds Investments and Securities Investment Business Regime, page 56.

During the 12-month period under review, CIMA carried out 798 prudential and non-routine meetings with licensees (88 percent of the targeted 910 meetings) and conducted 39 on-site inspections (47 percent of a targeted 84 inspections). The Authority’s understaffing during the period negatively impacted both the amount of on-site inspections and prudential meetings carried out. Nevertheless, efforts were made to ensure that licensees requiring greater attention, as a result of their risk rating, were given greater priority. The risk rating exercise the regulatory divisions undertook facilitated this. (See ‘Regulatory Developments – Authority-wide, page 28.)

With respect to review and analysis of regulatory returns from licensees, the divisions were above target, with 1,488 regulatory returns reviewed and analyzed, nine percent above the 1,368 forecasted.

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fiduciary sector via the Society of Trust and Estate Practitioners (STEP) and the Company Managers Association, and was accepted locally.

<sup>14</sup> Issued by the International Association of Insurance Supervisors ([www.iaisweb.org](http://www.iaisweb.org)). The Cayman Islands is a charter member of this association.

<sup>15</sup> [www.ogis.net](http://www.ogis.net)

In addition, the regulatory divisions processed 3,550 changes and requests related to licensees during the fiscal year. This work, which is always market-driven, includes processing changes to business plans, auditors, agents, applications for approval of directors, senior officers, shareholders and use of restricted words, and the issuing of letters of good standing. The number was four percent above the number forecasted.

There were 89 presentations made to industry and external groups (217 percent of the 28 forecasted). The meetings were as a result primarily of the meetings with various stakeholders in regards to Basel II and the E-reporting project.

## REGULATORY DEVELOPMENTS

### RULES, GUIDELINES AND POLICIES

The development, documentation and issuing of guidance for the financial industry is spearheaded by the Policy and Development Division. The division is responsible for researching industry and regulatory topics, for drafting policy and for co-ordinating the development of instruments applicable to, and for the benefit of, financial services providers. It works in conjunction with the supervisory divisions, the Compliance Division and in consultation with industry.

The Authority issued eight rules, 10 statements of guidance (SOGs) and one procedure during the year under review. It also issued two amendments to the *Guidance Notes for the Prevention and Detection of Money Laundering* (GN). These measures are listed in Table 14 and can be viewed in their entirety on the CIMA website. An update to the *Regulatory Handbook - Volume 1*<sup>16</sup> was issued in August 2006.

At the end of the financial year three additional measures had been drafted and had gone through industry consultation: SOG - Professional Indemnity Insurance for Trust Companies, drafted in respect of the newly legislated insurance requirement for trust companies<sup>17</sup>; Rule - Contents of Offering Documents of Licensed Funds; Rule - Calculation of Net Asset Values for Licensed Funds. Industry comments on the draft SOG on Internal Audit for Unrestricted Trust Companies were also being considered, especially in light of the amendments to the Money Laundering Regulations that impose an internal audit requirement.

**Table 14: List of Regulatory Measures Issued in 2006-2007**

When Issued	Type of Standard	Title	Description
<b>All Licensees</b>			
May 2007	Rule	<a href="#">Rule-Internal Controls</a>	Applies to all licensees and is the foundation for sector specific Statements of Guidance (SOGs). It requires each licensee to "establish, implement and maintain internal controls, strategies.

<sup>16</sup> On the CIMA website under Regulatory Framework/ Regulatory Handbook:

<http://www.cimoney.com.ky/section/regulatoryframework/sub/default.aspx?section=PD&id=71>

<sup>17</sup> The insurance requirement was imposed pursuant to Section 8 of the Banks and Trust Companies (Amendment) Law, 2006.

			<p>policies and procedures appropriate to the size, complexity, and nature of its activities." These measures must be approved by the licensee's board of directors and must be monitored.</p>
March 2007	SOG	<a href="#">Business Continuity Management</a>	<p>Aims to enhance all licensees' resilience by requiring them to put measures in place to identify and control risks that could threaten their operations.</p>
<b>Banking</b>			
Sept. 2006	SOG	<a href="#">Credit Risk Asset Classification</a>	<p>Provides guidance to banks in assessing the inherent credit risk in both on- and off-balance sheet interest bearing assets and using an appropriate grading system based on the banks' asset quality.</p>
Nov. 2006	SOG	<a href="#">Large Exposures and Credit Risk Concentration for Banks</a>	<p>Provides guidance to banks on their obligations set out in the rules covering large exposures and credit risk concentration for banks.</p>
Nov. 2006	Rule	<a href="#">Rule on Credit Risk Management for Banks</a>	<p>The measures for banks are designed to ensure licensed banks have adequate policies and procedures in place to manage the risks inherent in their day-to-day operations.</p>
Nov. 2006	Rule	<a href="#">Rule on Country and Transfer Risk Management for Banks</a>	
Nov. 2006	Rule	<a href="#">Rule on Interest Rate Risk Management for Banks</a>	
Nov. 2006	Rule	<a href="#">Rule on Investment, Securities, and Derivatives Risk Management for Banks</a>	
Nov. 2006	Rule	<a href="#">Rule on Liquidity Risk Management for Banks</a>	
Nov. 2006	Rule	<a href="#">Rule on Loan Loss Provision for Banks</a>	
Nov. 2006	Rule	<a href="#">Rules on Large Exposure and Credit Risk Concentration for Banks</a>	
Nov. 2006	SOG (Revised)	<a href="#">Large Exposures and Credit Risk Concentration for Banks</a>	
March 2007	SOG	<a href="#">Physical Presence - Banks</a>	
<b>Fiduciary Services</b>			
March 2007	SOG	<a href="#">Cancellation of Licence - Company Managers &amp; Corporate Services Providers</a>	<p>Provides procedural guidelines to facilitate an efficient process for the cancellation of licences and applies where licensees are being wound up voluntarily, have never carried on the "business of company management," as defined in the Companies Management Law, in the Cayman Islands, or where the licensee is transferring its business to another jurisdiction.</p>
May 2007	SOG	<a href="#">SOG-Internal Controls for Trust Companies, Company Managers and Corporate Services Providers</a>	<p>Provides guidance on the requirements of the rule on internal controls. As described in its statement of objectives, the measure provides best practice standards for "the implementation of an effective and sound internal control system." It covers management and supervision, risk management, operational controls, information management, monitoring activities, compliance, personnel and training issues and the segregation of duties.</p>
<b>Insurance</b>			
Sept. 2006	SOG (Revised)	<a href="#">Market Conduct Class A Insurers and Agents</a>	<p>Aims to enhance the conduct of insurers and their agents by outlining certain standards for doing business with customers. It requires insurers and agents to act with integrity, care, skill and diligence in their business activities; to pay due regard to the information needs of their customers, and to have a published complaints procedure. This SOG builds on the original one issued by CIMA in 2003.</p>
Nov. 2006	SOG	<a href="#">Capital Adequacy of Class B Insurers</a>	<p>Provides guidance on how much capital a Class B insurance company should hold.</p>
March 2007	Procedure	<a href="#">Approval and Notification of Changes-Class B Insurers</a>	<p>This sets out a checklist of the documentation to be provided to the Authority when a Class B licensee is seeking approval for any of the changes specified on the list or when the licensee is providing post notification of changes already made. The procedure comes from existing guidance, clarifying how the guidance relates to licensees' legal obligations. It will make it easier for licensees to quickly identify, in one place, all the</p>

			documentation they need to submit when seeking approval for a change or making post notification.
March 2007	Guidance Notes	Sector Specific Guidance for Insurance in the <a href="#">Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands-March 2007</a>	Provides new guidance for the domestic insurance market and adds text regarding risk-based approaches to anti-money laundering controls. The document covers the nature of products underwritten/sold including features of high and low-risk products. It provides guidance regarding applicants for business, including insurance-specific information that may be requested from applicants, and clarifies the scope of the Money Laundering Regulations in relation to intermediaries.
June 2007	SOG	<a href="#">Internal Controls-Insurance (Revised)</a>	This SOG, originally issued in 2003, has been updated to address current International Association of Insurance Supervisors (IAIS) principles, tie it to the new rule, and address in greater detail issues such as AML/CFT and outsourcing and to encompass other relevant guidance and codes. In general, the SOG provides guidance on the following aspects: management control, including financial management, insurance activity, claims handling and risk management, as well as ensuring compliance of the internal control systems with applicable laws.
<b>Investments &amp; Securities</b>			
May 2007	Guidance Notes	Sector Specific Guidance for Securities Investment Businesses in the <a href="#">Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands May 2007</a>	Provides, for the first time, specific guidance for securities investment businesses. In addition to mirroring guidance provided for other sectors, this addition identifies and clarifies the Applicant for Business on whom the Financial Services Provider must conduct due diligence and identifies a number of potential "red flags" relevant to securities investment businesses.

## OTHER REGULATORY DEVELOPMENTS

### AUTHORITY-WIDE

#### *Risk Rating Exercise*

To further refine its risk-based approach to the supervision of licensees and increase effectiveness and efficiency in the deployment of supervisory resources, the regulatory divisions undertook a licensee risk assessment exercise during 2005-06. By June 2007, the exercise was substantially complete except in the Fiduciary Services Division, where completion was expected early in the new fiscal year.

The exercise involved the detailed review of all files compiled by the Authority in respect of each entity and the subsequent application of a risk weighting to each, based on a methodology approved by the Authority's Board of Directors. This risk weighting is enabling the divisions to focus resources on those entities perceived as a greater risk and to give priority to regulatory intervention if necessary. All new applicants are risk rated as a matter of procedure.

### BANKING

#### *Basel II*

During the period, the Basel II<sup>18</sup> impact study and assessment was conducted, and the consultants PricewaterhouseCoopers submitted their final report in June 2007. The

<sup>18</sup> Basel II is a new set of standards for establishing minimum capital requirements for banking organizations. It was developed by the Basel Committee on Banking Supervision, a group of central banks and bank supervisory authorities in the G10 (Group of 10 Industrialised Countries). Basel II takes into account innovations in banking markets, risk management and banks' internal processes since the first capital framework, commonly known as Basel I or the Basel Concordat, was introduced in 1988. Basel II is a more risk-sensitive approach to capital regulation. It is being implemented in G10 countries and a number of non-Basel member jurisdictions are also implementing Basel II as a requirement for banks operating in their jurisdiction.

initial stage of the study involved meetings between the external consultants in conjunction with CIMA, and representatives of Government, the Bankers Association, Cayman Islands Society of Professional Accountants and various banks in order to assess where the local industry stood with respect to Basel II. Subsequently, detailed quantitative and qualitative questionnaires were prepared and issued to a sample of 20 banks, from the population of approximately 100 banks to which Basel II may apply and follow-up meetings were held to review their interim responses and provide assistance with areas of difficulty. These meetings provided additional relevant information to assist with the study. Nineteen completed the survey questionnaire within the given timeframe

The key recommendations of the report were that CIMA should implement Basel II (with a standardised approach to credit risk) between 2010 and 2012, with certain modifications to reflect local conditions, in order to maintain and enhance Cayman's international credibility and competitiveness. Implementation should be done after a measured pace of further industry consultation. Subsequent to the end of the financial year, the CIMA Board gave general approval to the recommendation to implement Basel II in phases between 2010 and 2012.

#### ***Amendments to the Banks and Trust Companies Law***

The Banks and Trust Companies (Amendment) Law, 2006 was gazetted in November 2006 and resulted in amendments that, amongst other matters, increase the protection of depositors and beneficiaries of a trust, increase the regulatory powers of the Authority in relation to banks and trust companies and redefine the obligations of auditors. Specifically, the main amendments:

- define “controlled subsidiary” and “debt;”
- enable certain trust companies to issue debt instruments after registration by CIMA rather than having to apply for a licence;
- require a licensee to maintain such portion of its issued capital in cash, or cash equivalent instruments, as CIMA specifies and prohibits a licensee incorporated under the Companies Law (2003 Revision) from having a capital adequacy ratio of less than 10 percent or any percentage as CIMA specifies;
- impose restrictions regarding engaging in trade, investing in shares, purchasing real estate and acquiring property which is the security for a debt;
- impose duties on trust companies in relation to the segregation of the company's assets and liabilities and the maintenance of professional indemnity insurance; and
- enhance the requirements for auditors to inform CIMA if, while conducting an audit of a licensee's accounts, they obtain information or suspect that a licensee will be unable to meet its obligations or is carrying on or winding up business in an improper manner.

#### ***Revised Basel Core Principles***

The Basel Committee formally adopted the revised Basel Core Principles for effective banking supervision during the International Conference of Banking Supervisors in Merida, Mexico, in October 2006. The revised guidelines update the original principles adopted in 1997, based on the significant developments in banking regulation that took place since that time and the experience of countries in implementing the principles<sup>19</sup>. CIMA assessed the Authority's compliance with the

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<sup>19</sup> Bank for International Settlements: <http://www.bis.org/publ/bcbs129.htm>

amended Basel Core Principles and its preliminary determination was that there were no significant legislative or other changes needed in order to remain largely compliant with the Core Principles.

## **FIDUCIARY**

### ***Private Trust Companies Regime***

CIMA and members of the Society of Trust and Estate Practitioners (STEP) held discussions on Cayman's existing regulatory regime for private trust companies and its suitability in facilitating the continued growth and development of the sector and in maintaining Cayman's competitiveness in this area. The discussions were prompted by recent regulatory changes in other jurisdictions and the apparent trend towards increased demand for private trust company formation in this jurisdiction. The industry representatives were advised to submit their proposals for changes to the Portfolio of Finance and Economics for consideration.

### ***Revision of Manuals and Forms***

The Fiduciary Services Division completed the review and amendment of its on-site manual. Review of the off-site manual was also completed and at fiscal year's end, amendments were being made. The work involved updating divisional procedures, and ensuring consistency with other CIMA manuals. A draft reporting form for trust companies that are licensed under the Banks and Trust Companies Law, including those that hold bank licences, and licensees under the Companies Management Law, was completed and work was in progress on developing appropriate forms and registration procedures for a "controlled subsidiary," as defined by section 2 of the Banks and Trust Companies (Amendment) Law, 2006. Since the passing of the amended law the division has received one application to have a controlled subsidiary registered by the Authority.

## **INSURANCE**

### ***Amendments to the Insurance Law***

The Insurance (Amendment) Law 2006 was gazetted in November 2006 and aimed to strengthen the consumer protection provisions governing the operation of insurers, particularly approved external insurers.

Amendments included the stipulation that the funds that approved external insurers are required to keep must be maintained under a CIMA approved trust arrangement and such funds must only be used to discharge the insurer's obligations in respect of its Cayman Islands business. The amended law further stipulates that approved external insurers must carry on business only in accordance with the information given on their licence applications and any proposed changes must be approved by CIMA, and must prepare annual accounts and financial statements to enable CIMA to be satisfied of their solvency.

The amendments clarify that the only persons entitled to insurance policy proceeds are the policyholders or beneficiaries under the policy. Such proceeds cannot be subject to, or be available to meet, the claim of any person's creditor, even if that person is the policyholder or beneficiary, unless the insurance contract was effected

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for such creditor's benefit. The proceeds are protected from the claim of any creditor in bankruptcy, insolvency, administration of similar proceedings relating to any person, including the policyholder or beneficiary, unless the insurance contract was entered into for such creditor's benefit. Further refinement to this legislation will follow in due course.

## **INVESTMENTS AND SECURITIES**

### ***Amendment to the Mutual Funds Law***

The Mutual Funds (Amendment) Bill 2006 was gazetted in November 2006. The main changes are set out below.

- The threshold for minimum investment in registered funds increased from US\$50,000 to US\$100,000.
- Funds from approved jurisdictions can be administered by a licensed mutual funds administrator in the Cayman Islands without CIMA registration.
- The definition of "carrying on business in the Islands" revised to indicate that where a mutual fund makes an invitation to the public in the Islands to subscribe for its equity interest it is carrying on business in the Islands and is therefore subject to regulation. ("The public" for these purposes excludes sophisticated and high net worth persons.)
- Certain retail funds in the Islands can be marketed without local registration, licensing or administration where these funds are regulated by a regulator in a jurisdiction approved by CIMA for that purpose, or are listed on a stock exchange specified by CIMA, and the funds are being sold through a person licensed under the local Securities and Investments Business Law.

Other amendments clarify and formalize powers and functions of CIMA with respect to the regulation of mutual funds in the Islands and (as with the amended Banks and Trust Companies law) provide for enhanced reporting obligations of auditors and for protection from liability where such disclosures are made, and requires mutual fund administrators to carry out additional due diligence on funds administered by them.

### ***Annual Returns Regulations***

The Mutual Funds (Annual Returns) Regulations 2006 came into effect on 27 December 2006, providing the enabling legislation for the Authority's implementation of electronic reporting for funds subject to the Mutual Funds Law.

### ***E-Reporting Project***

On 29 March 2007, CIMA officially launched electronic reporting for funds, accepting electronic submission of funds' audited accounts along with the Funds Annual Return (FAR). The Authority expects the switch to E-reporting to facilitate more efficient collection and processing of returns from the funds it now oversees.

Funds are required to submit their returns through their local auditors to CIMA within six months of the fund's financial year-end, beginning with those funds that have a year-end date on or after 27 December 2006. As of 30 June 2007, the Authority had successfully received 3,745 electronic transmissions.

# COMPLIANCE & ENFORCEMENT

## Due Diligence and Enforcement

As part of its regulatory functions, the Authority conducts due diligence on persons who have applied to act as directors, shareholders, managers, officers and controllers of licensed entities; investigates serious breaches of the regulations, and where necessary, takes enforcement action.

### *Due Diligence*

In carrying out due diligence, the Authority is guided by its *Guidelines - Fitness and Propriety*<sup>20</sup> and *Procedure – Assessing Fitness and Propriety*<sup>21</sup>. The Compliance Division, which is tasked with conducting due diligence on applicants that the regulatory divisions refer to it, received 211 such applications during the 2006-07 fiscal year. This compares to 214 during 2005-06. The breakdown by division is shown in Table 15

**Table 15: Due Diligence Applications Referred to the Compliance Division, 2005-06**

	Banking	Fiduciary	Insurance	Investments	Other	Total
Applications as at 30 June 2007:	30	112	8	60	1	211
Applications as at 30 June 2006:	38	137	5	34	0	214

### *Enforcement*

CIMA's *Enforcement Manual*<sup>22</sup> describes the policies, procedures and tools for the exercise of its enforcement powers in the event of non-compliance with the regulatory laws. The manual includes a ladder of compliance detailing the steps the Authority will follow in the event of non-compliance. Where appropriate, CIMA will work with the licensee or registrant in an attempt to resolve regulatory issues prior to the exercise of enforcement action. The Authority took seven formal enforcement actions during 2006-07, compared to 13 in 05-06. This comprised four revocations, one appointment of controllers and two winding up petitions (see "Litigation" below).

### *Litigation*

The Legal Division conducts enforcement and cooperative action involving litigation, with the Compliance Division's assistance. During the 2006-07 fiscal year, the division prepared and presented a petition for the winding up of Golden Accumulator and Coral House Ltd. This arose out of these companies' unwillingness to pay court costs awarded to the Authority in the Judicial Review decided in the Authority's favour on 18 October 2005. CIMA also petitioned for the winding up of Amerindo Internet Growth Fund. At 30 June 2007 a winding up petition with respect to Giamo Fund had been prepared and was to be filed.

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<sup>20</sup> Available online at:

[http://www.cimoney.com.ky/uploadedFiles/Regulatory\\_Framework/Policy\\_and\\_Development/Policies\\_Guidelines\\_and\\_Procedures/General/GuidelinesFitnessAndPropriety.pdf](http://www.cimoney.com.ky/uploadedFiles/Regulatory_Framework/Policy_and_Development/Policies_Guidelines_and_Procedures/General/GuidelinesFitnessAndPropriety.pdf)

<sup>21</sup> Available online at:

[http://www.cimoney.com.ky/uploadedFiles/Regulatory\\_Framework/Policy\\_and\\_Development/Regulatory\\_Handbook/RH\\_Appendices%20I%20%2015Mar2006%20EC%20.pdf](http://www.cimoney.com.ky/uploadedFiles/Regulatory_Framework/Policy_and_Development/Regulatory_Handbook/RH_Appendices%20I%20%2015Mar2006%20EC%20.pdf)

<sup>22</sup> Available online at:

[http://www.cimoney.com.ky/uploadedFiles/Regulatory\\_Framework/Policy\\_and\\_Development/Regulatory\\_Handbook/EnforcementManualJune%2006.pdf](http://www.cimoney.com.ky/uploadedFiles/Regulatory_Framework/Policy_and_Development/Regulatory_Handbook/EnforcementManualJune%2006.pdf)

# COOPERATIVE & ADVISORY FUNCTIONS

## CROSS-BORDER COOPERATION

The Monetary Authority Law (2004 Revision) (MAL) lists the provision of assistance to overseas regulatory authorities as one of the principal functions of the Authority. Such international cooperation takes place through the exchange of information, as provided for in the MAL and facilitated through memoranda of understanding (MOUs), as well as through the Authority's active participation in international forums (see "Role and Functions of the Monetary Authority," Appendix 2).

### **Memoranda of Understanding**

MOUs and similar agreements establish a framework for mutual assistance and cooperation by CIMA and the regulatory body with which the MOU is signed. The agreements specify when consultation should take place and the type of supervisory and enforcement information that may be exchanged. In this way they enhance the existing working relationships between the authorities.

CIMA's MOU with Jersey became effective in August 2007. Negotiations for MOUs with the Central Bank of Argentina and the Washington State Insurance Regulator were concluded by the end of the fiscal year and were pending approvals from CIMA's Board of Directors and the Cabinet, while negotiations for an MOU with the FSA (UK) and Bahrain Monetary Authority continued. At the same time CIMA participated in the International Association of Insurance Supervisors' initiative to develop and adopt a multilateral MOU, indicating its willingness to become a signatory to the MMOU and to act as a validator of the process.

### **Assistance to Overseas Regulatory Authorities**

An ongoing activity for the Legal Division is advising on, and co-ordinating responses to, requests for assistance from overseas regulatory authorities (ORAs). The division works closely with the Compliance Division and other CIMA divisions to ensure that requests are handled in a timely and efficient manner and that they conform to the requirements of the MAL. The *Procedure - Dealing with Requests for Assistance from an Overseas Regulatory Authority (ORA)*<sup>23</sup> sets out the Authority's approach in dealing with these requests. The process includes reviewing and assessing the requests and drafting directions to persons who have information that will assist the ORA in performing its functions.

The Authority received and processed 156 requests for assistance from ORAs, up from 107 during the previous financial year.

### **International Initiatives**

*Typologies on the Misuse of Corporate Vehicles* - The Offshore Group of Banking Supervisors forwarded the final draft report on its typologies project on the misuse of corporate vehicles to the Financial Action Task Force Typologies Working Group to consider at its October 2006 meeting. This project started in 2005 with a workshop on

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<sup>23</sup> On the CIMA website:

[http://www.cimoney.com.ky/pages/aboutus/RHA\\_Revised\\_ORA\\_Procedures.pdf](http://www.cimoney.com.ky/pages/aboutus/RHA_Revised_ORA_Procedures.pdf)

the misuse of corporate vehicles. It was initiated in response to the perception among some of the international standard setting bodies that criminals seek to use corporate vehicles and providers of trust and corporate services to assist in money laundering. The Authority participated in the initial workshop and was subsequently involved in the preparation of the report, entitled “*Misuse of Corporate Vehicles including Trust and Company Service Provider Activity.*”

*IAIS Guidance Paper* - Following the publication in October 2006 of its issues paper on the regulation and supervision of captive insurance companies, the IAIS Technical Committee resolved that there was a need to provide more guidance to supervisors. It mandated that a guidance paper on the supervision of captives be created. Two key issues for consideration in the paper were the definition of a captive (which would define the scope of the guidance) and the need to put the guidance into the context of the IAIS Insurance Core Principles. The Authority has been involved in the drafting and review of the paper, targeted for completion for presentation and adoption at the October 2008 AGM in Budapest.

*IOSCO* - The Authority continued to engage in discussions with the International Organization of Securities Commissions regarding its application for membership in that body.

*International Assessments of the Cayman Islands* - The Authority’s arrangements, in conjunction with the Portfolio of Finance and Economics, for follow up review visits by the Caribbean Financial Action Task Force (CFATF) and the IMF started from the previous fiscal year. During 2006-07, most of the divisions of CIMA were heavily involved in preparations for the CFATF’s jurisdictional assessment. Following the conclusion of the on-site portion of the assessment in June 2007, the Authority continued to cooperate in the assessment process, providing supplementary documentation and information. CIMA continues to maintain a preparatory action program for the impending International Monetary Fund (IMF) assessment visit, now expected in 2008.

#### **Conferences and Training Hosted**

CIMA hosted three international conferences and training courses during the year. These were: the Federal Reserve System Market Risk Analysis Seminar in December, attended by 15 persons including eight from other Caribbean territories; the IMF Round Table Meeting also held in December and which had 47 attendees, and the 8<sup>th</sup> Biennial Central Bank Legal Advisors Conference in May.

### **LOCAL COOPERATION**

#### **Money Laundering Reporting**

The Head of Compliance is the Monetary Authority’s Money Laundering Reporting Officer (MLRO) under the Proceeds of Criminal Conduct Law (2005 Revision). Any suspicion of money laundering identified by CIMA’s staff in conducting their supervisory activities is reported to the MLRO, who has the responsibility to report to the Financial Reporting Authority (FRA) in conformance with the Money Laundering Regulations (2003 Revision). During the reporting period the MLRO filed six suspicious activity reports (SARs) with the Financial Reporting Authority (FRA)

during the 2006-07 fiscal year, the same number of SARs filed for the period 1 July 2005 to 30 June 2006. The FRA made five onward disclosures to the Authority pursuant to the Memorandum of Understanding between the FRA and the Authority.

**Local Memoranda of Understanding**

Two local agreements were brought into effect during the 2007-07 fiscal year: an MOU with the Health Insurance Commission in September 2006, and a Protocol with the Cayman Islands Society of Professional Accountants (CISPA) in May 2007.

**ADVISORY ACTIVITY**

The Monetary Authority Law (2004 Revision) requires CIMA to advise the Government on monetary, regulatory and cooperative matters, and to consult with the local private sector on proposed measures. Consultation is carried out with respect to all rules, statements of guidance, policies and other measures. The measures implemented and in development during the 2006-07 fiscal year are listed in Table 14, beginning on page 26.

# **OPERATIONAL SUPPORT & ADMINISTRATION**

# HUMAN RESOURCE MANAGEMENT & DEVELOPMENT

## *Staffing and Recruitment*

The Authority's staff complement rose from 104 at 30 June 2006 to 116 at 30 June 2007, 11 percent less than the budgeted complement of 131. CIMA experienced ongoing difficulties in recruitment and retention during the fiscal year. However it was able to recruit 35 persons, roughly twice the 17 persons who resigned. There was one retirement during the year, while six persons were promoted internally. Staff turnover was 19 percent, compared to 16 percent in the previous year.

**Table 16: Staff numbers by division at 30 June 2007**

Division	Actual staff numbers at 30 June 2007	Budgeted staff numbers 2006-07
Banking	20	22
Compliance	8	9
Currency Operations	5	7
Fiduciary Services	8	8
Insurance	12	16
Investments and Securities	23	27
Legal	6	7
Managing Director's Office	6	4
Operations (Accounts, Information Systems & Human Resources)	21	24
Policy & Development	7	7
<b>TOTAL</b>	<b>116</b>	<b>131</b>

A variety of recruitment methods were utilized during the year. However, based on reasons given for non-acceptance of job offers and for resignations, the salary scales CIMA implemented in July 2006 have again fallen below market level. This is exacerbated by the industry-wide issue shortage of appropriately qualified and experienced personnel. CIMA continues to examine new strategies to reach the required staffing levels and is contemplating outsourcing of certain functions such as on site inspections. A salary review is to be conducted in the new fiscal year.

CIMA continued to support local career development initiatives and to expand awareness of its operations by accepting a number of students involved in internship and work experience programmes from the high schools and University College of the Cayman Islands and, in addition, employed a record 10 high school and tertiary students as part of its own summer internship programme during July and August 2006.

## *Training and Professional Development*

Continuing the Authority's significant investment in the development of existing staff, the Human Resources Unit arranged staff participation in some 128 external training sessions, conferences and high-level meetings during the year.

Eleven persons prepared for the Association of Certified Anti Money-laundering Specialists (ACAMS) examinations and subsequently sat the exams in July 2007. Employees remained current with global anti-money laundering issues through 'webinars' hosted by Alert Global Media and ACAMS and coordinated in-house. Sessions, which attracted staff from heads of division to analysts, covered such

aspects as money launderers' perspectives, adapting AML programmes to include senior management, and creating value for AML departments.

In December, CIMA, in conjunction with the University College of the Cayman Islands, KPMG, PricewaterhouseCoopers and Deloitte held a three-day workshop: Interpreting Financial Statements, which give analysts and junior analysts a basic understanding of financial statements. Sixteen supervisors at the senior and chief analyst levels benefited from the Effective Management and Leadership Skills workshop specifically designed and delivered by the local company Soft-Tech in February. That two-day workshop provided techniques to meet the needs of the organization based on guidelines supplied by CIMA.

Other in-house courses included the six-module orientation course for new employees, as well as end-user, refresher and approval manager courses for TimeClock, the Authority's computerised time tracking system.

## **INFORMATION SYSTEMS**

The Information Systems (IS) Unit undertakes the maintenance of the Authority's existing information systems and the review and planning of new implementations and developments. Major projects involving IS in 2006-07 are outlined below.

*Data centre* – the Authority's new data centre was placed into production use with the transfer of most primary servers to this new facility, which provides additional features and space to support the continued growth of CIMA's computing requirements for the medium term.

*E-Reporting* – The E-reporting system went live at the end of March 2007 (see page 31 under Regulatory Developments - Investments and Securities). The Information Systems Unit was heavily involved in both the technical and business aspects of the project, which was a hugely complex information technology related initiative, taking over two years to complete. The E-reporting system was developed to satisfy the infrastructure requirements of the Authority's data returning regime and is intended to replace the e-filing module currently in use in the Authority's CIISMA application. It is intended that the next step in development will focus on the Insurance Supervision Division, during 2007-08.

*CIISMA4* – Progress has been made in the development of the CIISMA4 data management application with the release of the ORA (overseas requests for assistance) module, to the Legal and Compliance divisions, and user acceptance testing of the mail registry module. The Authority-wide release of this module was planned for the first quarter of 2007-08, along with user acceptance testing of the fee receiving module and the gathering of requirements for other modules.

*COBIT Implementation and Strategic Plan Development* – The implementation of the COBIT information technology governance framework continued with draft terms of reference being developed by the end of the fiscal year for the engagement of consultancy services for the implementation. CIMA began development of a strategic plan for IT, which was also ongoing at 30 June 2007.

*SWIFT Upgrade* – During the reporting period the Information Systems Unit supervised the implementation of an upgrade to the SWIFT messaging systems used by the Currency Division. This process was completed successfully including testing of both the production and disaster recovery systems.

## **PUBLIC RELATIONS**

The Monetary Authority endeavours to maintain and enhance relationships with its stakeholders and other groups through ongoing provision of information and through dialogue, consultation and collaboration as appropriate. Public relations activities are co-ordinated through the Managing Director's Office by the Public Relations Executive.

*Website* – The website continued to be updated on an ongoing basis. A focus was on expanding and achieving greater consistency in the statistics presented across sectors. Efforts to identify an external service provider to undertake further upgrades to the site were advanced at the end of the fiscal year.

*Publications* – Among material produced and disseminated through the PR unit during the fiscal year 2006-07 were some 25 media releases; four regular issues of *The Navigator*, CIMA's quarterly newsletter, which is distributed to over 300 local and overseas recipients; the *2005-06 Annual Report*; and quarterly reports to the Financial Secretary. Senior CIMA officials contributed articles, updates and messages at the request of several local and international publications.

*External Liaison and Monitoring* – Numerous local and overseas media requests for information in pursuance of stories being prepared by reporters were dealt with and assistance was provided in response to calls and emails from members of the public and from government agencies. There was also ongoing monitoring, collection, and dissemination to directors and management, of external information on local and international market, regulatory and political developments relevant to CIMA.

*Presentations* – Senior staff and members of the Board of Directors delivered some 16 major speeches and presentations at local and overseas conferences, meetings and seminars during the year along with a number of other informal presentations. The major presentations delivered by CIMA officials, as well as the releases and publications mentioned are available in the "Media Centre" and "Publications" sections of CIMA's website ([www.cimoney.com.ky](http://www.cimoney.com.ky)).

## **FINANCIAL CONTROL**

The Accounts Unit has responsibility for all financial matters relating to budget, annual licence fee collection, payroll, and accounts payable, and is responsible for preparation of CIMA's financial statements and the purchase & ownership agreements between the Cabinet and the Authority (see Appendix 1, "Role and Functions of the Monetary Authority - Relationship with Government"). The unit's objectives are essentially created by the financial requirements of the organization and its stakeholders and the resources available to it.

The Chief Financial Officer oversaw the implementation of the computerised time management system, TimeClock Plus 5.0, for the Authority during the 2006-07 fiscal year. The Information Systems Unit provided technical assistance in the set up of the system while the Training and Development Specialist provided training and implementation support. This project was fully implemented in July 2006.

The Government's Internal Audit Unit completed an operational audit of the CIMA's Accounts Unit. A draft report was received and at 30 June management was in the process of responding to the finding and recommendations.

For a summary of fees collected, and income, expenditure and surplus for fiscal year 2005-06, see Table 18 – Financial and Personnel Resources, page 49. The Authority's complete financial statements for the period are published as a separate appendix to this report.



*APPENDIX 1*

**2006-07 WORK PLAN  
AND  
PERFORMANCE SUMMARY**

## 06-07 WORK PLAN & PERFORMANCE SUMMARY

To fulfil its mission the Authority annually reviews its strategic goals and objectives, adopts specific strategies and tactics, and translates these into non-routine projects. These, along with the Authority's routine responsibilities, become its work programme for the year. The work programme is documented in the Authority's *Look Forward Report* and is published on the website. The following is a synopsis of the report, with a summary of year-end status of projects, key performance indicators and financial and personnel resources.

### GOAL 1:

Create a high quality and effective regulatory environment to attract users and providers of financial services.

#### Objective 1:

- To ensure that the laws and regulations and scope of supervision are in line with international standards that is appropriate for the Cayman Islands.

#### Strategies

- Evaluate existing legislation and propose, as necessary, changes in relation to international standards relevant to the Cayman Islands financial industry.
- Continue the on-going process of review in order to ensure that the supervisory process is competitive in comparison with other offshore jurisdictions.

#### Tactics

- Continue the establishment of relevant working parties (on a cross divisional basis) headed by a representative from the Management Committee ("MC");
- Conduct comparative studies of the laws and regulations of other jurisdictions and international standards; identify shortcomings of own legislation (from compliance cases, on-site inspections, etc.) in the review process;
- Advise the Cabinet, through the Financial Secretary, of proposals to amend or introduce legislation to address any deficiencies identified.
- Conduct comparative studies of the supervisory process in other jurisdictions in order to evaluate the appropriateness of the CIMA's supervisory process in respect of both international standards and from a competitive stance.

Projects on 2006-07 Non-routine Work Programme	Status at 30 June 2007
Continue the analysis of proposed changes to regulatory framework recommended by IMF and CIMA/Industry Working Groups.	Ongoing
Continue to work with the Portfolio of Finance to progress the recommendation of technical amendments to regulatory laws (as agreed with the industry and Government) including the Insurance Law Working Group and the Mutual Funds Working Group	Completed. The Insurance Law amended on 14 November 2006, and the Banks and Trust Companies Law were amended on 19 June 2007.
Working Group on Unregulated & Exempt Entities and Corporate Service Providers.	Industry Survey deferred pending comparative analysis of other jurisdictions. Further work to be undertaken by the Secretariat, Portfolio of Finance & Economics.
Continue to enhance and maintain the database of laws and regulations of competitor jurisdictions.	Ongoing. 90 percent completed.
Issuance of Statement of Guidance on Business Continuity Plans	Completed. SOG on business continuity Management issued on 19 <sup>th</sup> March 2007.
Implementation of Basel market risk amendment for banks	Ongoing
Issuance of Rule for filing of statutory returns by all licensees	Ongoing
Continued analysis of and consultation with industry on, Basel II Capital Accord including the conduct of a Basel II impact study and assessment with the assistance of a consultant.	Ongoing

Consideration of need for regulation of bank holding companies and preparation of paper.	To commence
Recommendation for legislative changes needed to maintain compliance with amended Basel Core Principles.	Ongoing
Conduct self assessment against the relevant international standards so as to ensure that the Authority is well placed for the external assessments by the Caribbean Financial Action Task Force (CFATF) and the International Monetary Fund (IMF)	Completed
Review of the Basel 2004 publication on Consolidated KYC Risk Management and its implications for Cayman	To commence
Issuance of a Statement of Guidance on the Minimum Criteria for Maintaining Physical presence for banks subject to section 6(6) of the BTCL – Banks	Completed. SOG issued in March 2007.
Issuance of a Rule on Internal Controls	Completed. Rule issued on 29 <sup>th</sup> May 2007.
Establish SIBL Working Group to review laws and regulations impacting securities business and to consider the issues identified in the Task Force Review.	To commence

### Objective 2:

- To assist overseas regulators in a manner consistent with Cayman Islands laws.

#### Strategy

- Enhance international regulatory co-operation through the development and application of a clear and transparent process for providing assistance under the laws of the Cayman Islands.

#### Tactics

- Continue to negotiate and devise Memoranda of Understanding (“MOU”) and other agreements that are congruent with Cayman laws with relevant parties.
- Continue to review and collate statistics on requests for assistance on a quarterly basis to be used for overseas request as well as domestic purposes.
- Enhance already established internal procedures and performance standards for responding to information requests.

Projects on 2006-07 Non-routine Work Programme	Status at 30 June 2007
Continued pursuance of membership in, and dialogue with, IOSCO.	Ongoing
Continue negotiation of MOUs with various qualified foreign regulators.	Ongoing. MOU with Jersey Financial Services Commission signed during the period.
Complete the analysis of cross-border exchange of information regimes in other relevant jurisdictions.	Ongoing
Establish a centralized internal filing system for the accurate maintenance of overseas requests for assistance, and MOUs facilitating ease of access and retrieval for appropriate Monetary Authority users.	Ongoing
Review criteria used for entering into MOUs	Ongoing

### Objective 3:

- To be responsive to appropriate needs of the market.

#### Strategy:

- Monitor the local and international market in order to identify, understand and anticipate the needs of stakeholders both locally and internationally.

#### Tactics:

- Continue to conduct regular meetings with stakeholders;
- Monitor developments in local and international markets;
- Conduct Cost Benefit Analysis in order to identify appropriate action;
- Advise the Government on actions needed.

Projects on 2006-07 Non-routine Work Programme	Status at 30 June 2007
Conduct an assessment and report on the effectiveness and cost-benefits of the Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands (GN) with the aim of developing a more sophisticated risk-based approach.	Completed
Complete the review of the provision of guidance to the insurance industry on	Completed. Incorporated in the

customer identification in section 8 of the GN with a view to possible enhancements.	March 2007 amendments to the GN.
Review of the regime for trusts (including special or single purpose vehicles, debt-issuing trustees, and for unit trusts) and wealth management with a view to streamlining regulatory requirements and procedures.	Completed. Banks and Trust Companies Law was amended (September 2006) to include "Controlled Subsidiaries.
Complete the process for issuance of specific anti-money laundering guidance to money services businesses.	Ongoing
Complete the review of policy on 'local approved auditors' and the Protocol between CISP and CIMA to ensure consistency in approach on matters dealing with the licensing and approval of auditors under respective legislation.	Completed. Protocol between CISP and CIMA signed in May 2007.
Issuance of new/amended forms for prudential returns for trusts and company managers.	Ongoing
Review of informal policy of not conducting inspections of restricted trust companies and corporate service providers.	Ongoing
Establishment of guideline on maximum number of trusts for restricted trust companies.	Ongoing. To be coordinated with the publishing of Vol. II of the Regulatory Handbook
Complete the process for issuance of guidance for the accurate completion of new reporting forms to companies writing local insurance business.	Ongoing
Issue a Statement of Guidance that will clearly define the various categories of regulated mutual funds, in particular to highlight the distinction between retail and non-retail funds	Ongoing
Continue to work through the OGBS to ensure that OFCs are recognised where applicable by their counterparts as well as onshore jurisdictions as having equivalent Anti Money Laundering Legislation	Ongoing
Continue to work through the CFATF to ensure that Cayman's views are reflected on the FATF's Working Group on "Misuse of Corporate Vehicles"	Ongoing
Complete and Issue a Policy on Licensing of Banks under section 10 1(d) of the Bank licensing Statement of Guidance	Ongoing
Finalisation of recommendations to Government on rebalancing of fees between company managers and trust companies	Completed

## GOAL 2:

To operate the Monetary Authority in the most efficient way possible

### Objective 1:

- To secure adequate resources and deploy them efficiently in the fulfillment of the Monetary Authority's mandate.

### Strategy:

- Identify the physical, technical and human resources needed to satisfy the Monetary Authority's mandate efficiently.
- Enhance dialogue with the Cabinet in order to ensure that the Cabinet is fully aware of the resource needs of the Monetary Authority.

Projects on 2006-07 Non-routine Work Programme	Status at 30 June 2007
Continue to monitor and evaluate the effectiveness of existing resources in meeting the agreed outputs of the Monetary Authority against pre-determined performance and efficiency indicators. Identify any shortfalls and/or inefficiencies in resource utilization.	Ongoing
On-going review of agreed outputs and adequacy of resources to meet increasing demands.	Ongoing
Strengthen the use of relevant technology to increase staff efficiency and the quality of output.	Ongoing
Seek to finalise the proposed MOU with the Portfolio of Finance so as to formalise the dialogue process with the Cabinet.	Ongoing

## GOAL 3:

To preserve the value and integrity of the Cayman Islands' currency

### Objective 1:

- Maintain and safeguard adequate reserves.

### Strategy

- On-going review of the Monetary Authority's investment strategy

### Tactic

- Continue periodic reviews of the Authority's investment strategy.
- Continue to monitor adherence to the investment strategy by the Fund Managers and advise the Board on any deviations.

Projects on 2006-07 Non-routine Work Programme	Status at 30 June 2007
Segregate the Reserves so as to ensure continued statutory compliance.	Ongoing

**Objective 2:**

- Deter counterfeiting.

**Strategy**

- Educate and train Currency personnel and the general public.

**Tactic**

- Continue to provide and update training of Currency personnel in fraud and counterfeiting detection to ensure they are kept abreast of the latest trends; continuation of relationship with Commercial Crime Unit;
- Educate the general public via website advisories, press releases and workshops.

Projects on 2006-07 Non-routine Work Programme	Status at 30 June 2007
Preparation of research paper with analysis and recommendations regarding design and security features for currency.	Completed

**Objective 3:**

- Provide adequate stock, and facilities for the physical safeguarding of the currency.

**Strategy**

- Ensure that the working environment is safe and conducive to an efficient operation.
- Ensure that stock levels are adequate to meet demand in all circumstances.

**Tactics**

- Continue to work with the Government Office Accommodation Project Team to ensure that the specific requirements for the Authority are provided for in the new building
- Advise the Cabinet on what constitutes appropriately secure facilities for the safeguarding of the currency.
- Continue to work towards implementation of an appropriate electronic vault management system.
- Strengthen print/mint ordering and inventory management strategy.

Projects on 2006-07 Non-routine Work Programme	Status at 30 June 2007
Preparation of research paper with analysis and recommendations regarding disaster recovery back up stocks.	Completed
Preparation of proposals on methodology to be adopted for ordering new currency (notes and coins).	Completed
Develop a plan for the long term alternatives for the hoarding of coins	Completed

**GOAL 4:**

To raise the profile in order to increase understanding of the Monetary Authority both locally and internationally

**Objective 1:**

- Strengthen relations with regulatory counterparts, and all other stakeholders (the government, the industry and the public).

**Strategy:**

- Involvement in relevant international forums; coordination with local private sector organizations and Government bodies (e.g. the Secretariat) to address the regulatory aspects of international initiatives
- Establish an educational campaign to educate the general public on role and responsibilities of the Monetary Authority; work with the Complaints Commissioner in ensuring that the Monetary Authority is cognizant of the opinions of the general public and how the Monetary Authority is perceived.

**Tactics:**

- Continue to expand the number of appropriate forums that add value to the regulatory process; and continue to ensure that relationships are forged with the Cabinet/private sector and that appropriate information is disseminated.
- Continue to utilize the Monetary Authority's website to disseminate information.
- Continue to publish regular features in local and international media to ensure the Monetary Authority maintains a high and positive profile locally and overseas.
- Continue participation of Senior Management Team in local and international conferences/workshops.
- Continue promotion by all Directors of the work of CIMA, through speaking engagements, attendance at functions and through other forums.
- Continue to expand educational initiatives beyond local high school to other educational establishments both locally and overseas. Participate in careers fairs, information seminars, mentoring schemes.
- Enhance participation in international fora to inform the debate on the development of appropriate international standards
- Continue to expand coordination with the Government, Financial Services Council, Secretariat, Stock Exchange, Cayman Islands Investment Bureau, Maritime Authority, General Registry, Health Insurance Commission, Superintendent of Pensions and Private Sector, on matters of common interest (e.g., legislation, regulation, promotion of Cayman, international representation, resource and intelligence sharing)
- Enhance international awareness and intelligence gathering through more vigorous and proactive monitoring of international developments

Projects on 2006-07 Non-routine Work Programme	Status at 30 June 2007
Identify and hire a web design firm to assist with the redesign and upgrade of the CIMA's website	Ongoing
Continued updating the contents of the CIMA website, including addition of FAQs that provide key guidance and assistance to prospective and existing investors and consumers regarding regulation and consumer protection.	Ongoing
Continue to expand the publication of enforcement actions.	Ongoing
Continuous update and annual reissue of Regulatory Handbook.	Ongoing
Completion of Volume II of the Regulatory Handbook.	Ongoing
Continuation of regular meetings with industry associations.	Ongoing
Continue to work to enhance relations with Government through regular meetings.	Ongoing
Establishment of biannual meetings with overseas regulatory bodies.	Ongoing
Enhance data collection through the implementation of CIMA internal procedures for data processing and recording and increase data dissemination by means of the website and publication of a periodic statistical digest	Ongoing
Development and implementation of an educational campaign to improve public understanding of CIMA and its role.	Ongoing

**Objective 2:**

- Forge/enhance relationships with local and international media

**Strategy:**

- Increase networking opportunities for Public Relations Executive, the Managing Director and other senior members of staff.

**Tactic:**

- Continue to proactively disseminate information e.g. interviews and articles for leading journals and broadsheets.
- Continue to ensure that the Monetary Authority's perspective is accurately conveyed, establish/continue regular briefing meetings with local press and local associations.

**Status at 30 June 2007**

Ongoing

**Table 17: Routine Outputs and Special Projects – KEY PERFORMANCE INDICATORS**

Key Performance Indicators	Banking		Fiduciary		Insurance		Investment & Securities		Legal & Compliance		Policy & Development (P&D)		Currency	
	2005/06 Actual (& Target)	2006/07 Actual (& Target)	2005/06 Actual (& Target)	2006/07 Actual (& Target)	2005/06 Actual (& Target)	2006/07 Actual (& Target)	2005/06 Actual (& Target)	2006/07 Actual (& Target)	2005/06 Actual (& Target)	2006/07 Actual (& Target)	2005/06 Actual (& Target)	2006/07 Actual (& Target)	2005/06 Actual (& Target)	2006/07 Actual (& Target)
Onsite Inspections	10 (20)	9 (40)	3 (10)	3 (11)	27 (tbc*)	6(13)	10 (0)	21 (20)	N/A	N/A	N/A	N/A	N/A	N/A
Prudential Visits	160 (200)	201 (200)	79 (60)	41 (90)	376 (500)	433 (500)	32(0)	123 (120)	N/A	N/A	N/A	N/A	N/A	N/A
Licences Issued; registrations	6 (6)	8 (6)	12 (12)	15 (10)	83 (70)	76 (60)	1807 (1520)	1778 (1600)	N/A	N/A	N/A	N/A	N/A	N/A
Destruction Meetings	N/A	N/A	74 (40)	15 (16)										
Issue/Redemption of Currency	N/A	N/A	54 (58)	57 (58)										
Enforcement Actions	N/A	13 (15)	7 (15)	N/A	N/A	N/A	N/A							
Litigation Cases	N/A	8 (6)	6 (10)	N/A	N/A	N/A	N/A							
Overseas Regulatory Assistance	N/A	107 (113)	154 (120)	N/A	N/A	N/A	N/A							
Special Projects	30 (39)	Included with P&D	15 (20)	Included with P&D	15 (15)	Included with P&D	20 (35)	Included with P&D	6 (9)	12 (17)	16 (37)	50 (102)	3 (6)	Included with P&D

**Notes:**

N/A The relevant department does not perform the indicated function

\* Number not available

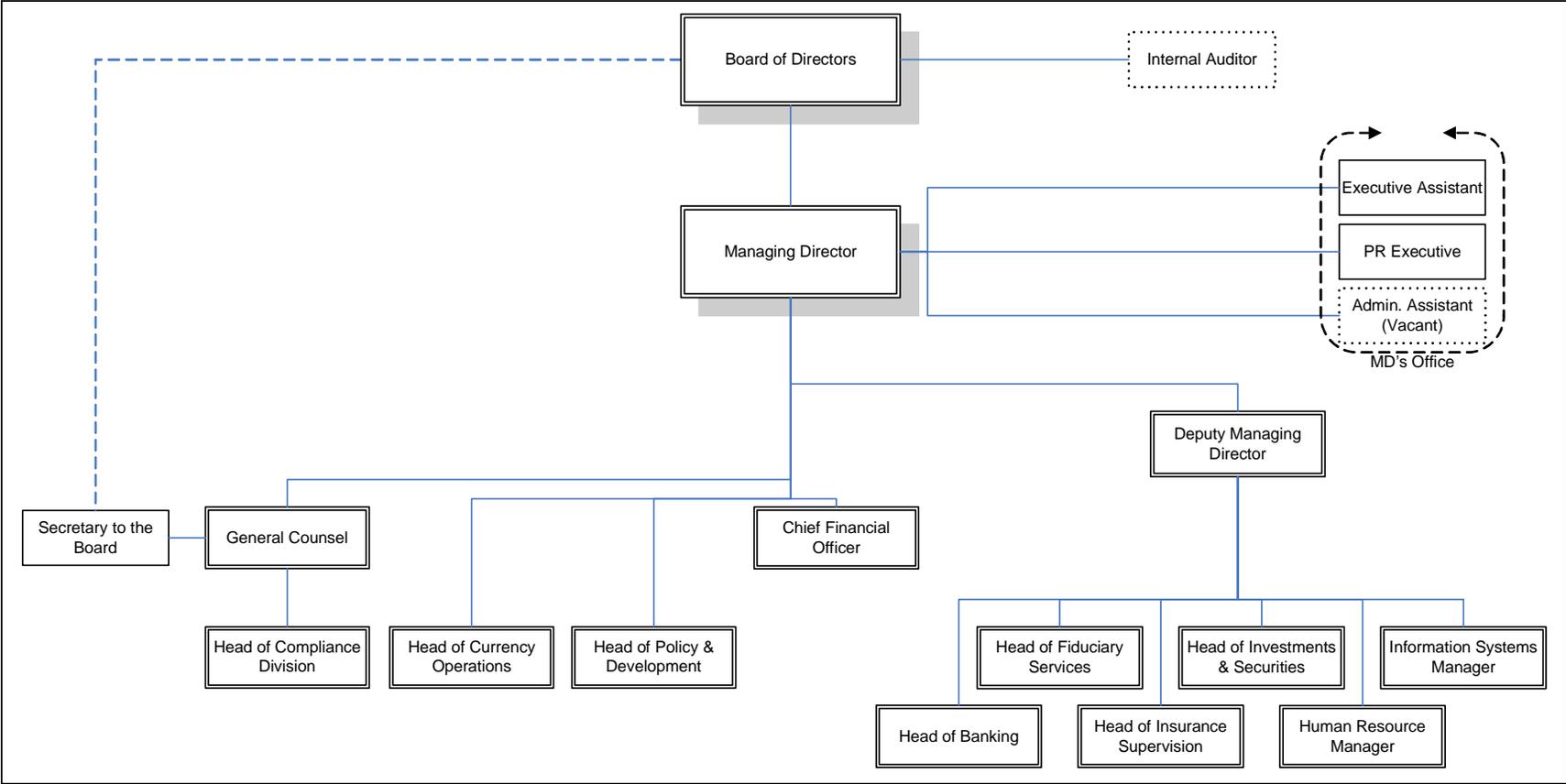
**Table 18 - FINANCIAL & PERSONNEL RESOURCES**

	<b>2005-06 Actual</b>	<b>2006-07 Actual</b>
<b>Licence Fees:</b>		
Banking	20,071,692	19,928,195
Insurance	6,181,845	7,038,207
Investments (inc SIBL)	24,402,847	28,370,478
Fiduciary	5,004,251	4,933,892
Total Fees	55,660,635	60,270,772
	<b>2005-06 Actual</b>	<b>2006-07 Estimates</b>
<b>Income:</b>		
Gov. Funding	12,495,240	12,451,342
Investment income	3,945,641	5,179,397
Commission income	812,504	731,505
Numismatic & Other	263,298	16,470
Total Income	17,516,683	18,378,741
<b>Expenses:</b>		
Salaries	7,485,212	7,948,683
General and Admin	2,188,863	2,294,685
Conf., Travel, Training	600,322	758,338
Prof. Fees	789,307	606,870
Rent and Depreciation	647,588	866,180
Total Expenses	11,711,292	12,474,756
<b>Surplus:</b>		
Surplus from Ordinary Activities:	5,805,391	5,903,958
Extraordinary Expense:		
PSL		
Net Surplus After Extraordinary Item:		5,903,958
<b>Staff</b>	103	116

## *APPENDIX 2*

### **ABOUT THE CAYMAN ISLANDS MONETARY AUTHORITY**

# CIMA ORGANIZATIONAL CHART



Note: A full version of this chart is available in the About Us section of CIMA’s website: [http://www.cimoney.com.ky/uploadedFiles/About\\_Us/OrganisationalChart.pdf](http://www.cimoney.com.ky/uploadedFiles/About_Us/OrganisationalChart.pdf)

## **DIRECTORS & SENIOR OFFICERS AS AT 30 JUNE 2007**

<b>Chairman</b>	Timothy Ridley OBE
<b>Deputy Chairman</b>	Joel Walton
<b>Managing Director</b>	Cindy Scotland
<b>Directors</b>	Warren Coats PhD Richard W. Rahn PhD Bryan Bothwell Adriannie Webb Professor William Gilmore Carlyle McLaughlin Christopher Rose PhD
<b>Deputy Managing Director</b>	Patrick Bodden
<b>Banking Supervision Division</b>	Head of Banking Supervision: Malcolm Eden
<b>Compliance Division</b>	Head of Compliance: RJ Berry
<b>Currency Operations Division</b>	Head of Currency Operations: Cindy Scotland Deputy Head: Shan Whittaker
<b>Fiduciary Services Division</b>	Head of Fiduciary Services: Rohan Bromfield
<b>Insurance Division</b>	Head of Insurance: Morag Nicol Deputy Head: Dean Wickens
<b>Investments and Securities Division</b>	Head of Investments and Securities: Yolanda McCoy Deputy Head: Heather Smith
<b>Legal Division</b>	General Counsel: Langston Sibbles Legal Counsel: Sandra Edun-Watler Legal Counsel: Candice Huggins
<b>Managing Director's Office</b>	Public Relations Executive: Joan Scott-Campbell
<b>Operations Division</b>	Chief Financial Officer: Gilda Moxam-Murray Human Resources Manager: Deborah Musson Information Systems Manager: Rodney Ebanks
<b>Policy and Development Division</b>	Head of Policy and Development: Mitchell Scott Deputy Head: Lisa Martine Bowyer

Note: Directors and senior officers' biographies are available on the CIMA website.<sup>24</sup>

<sup>24</sup> <http://www.cimoney.com/ky/section/aboutus/default.aspx?id=59>

# ROLE AND FUNCTIONS OF THE MONETARY AUTHORITY

The Cayman Islands Monetary Authority (CIMA) came into existence on 1 January 1997, an amalgamation of the former Cayman Islands Currency Board and the Financial Services Supervision Department. Established as a wholly government-owned body corporate, the Authority received full operational independence on 10 March 2003, through the Monetary Authority Law (2003 Revision). The key feature of this change was that powers previously vested in the Cabinet of the Cayman Islands to issue and revoke licences and for enforcement now vest in the Authority, through its Board of Directors.

CIMA has four **principal functions**.

1. **Monetary** - the issue and redemption of the Cayman currency and notes and the management of currency reserves.
2. **Regulatory** - the regulation and supervision of financial services, the monitoring of compliance with money laundering regulations, the issuance of a regulatory handbook on policies and procedures and the issuance of rules, and statements of principle and guidance.
3. **Cooperative** - the provision of assistance to overseas regulatory authorities, including the execution of memoranda of understanding to assist with consolidated supervision.
4. **Advisory** – the provision of advice to the Government on monetary, regulatory and cooperative matters.

The **primary obligations** of the Monetary Authority in carrying out its functions are:

1. to be efficient and act in the best economic interests of the Cayman Islands;
2. to promote and maintain a sound financial system and reduce the use of financial services business for criminal purposes;
3. to promote and enhance market confidence, consumer protection and the reputation of the Cayman Islands as a financial centre;
4. to recognise the international character of financial services/markets and the need to be competitive for consumers and suppliers while complying with appropriate and relevant international standards; and
5. to be transparent and fair.

## **Relationship with Government**

Cabinet retains the power to give the Monetary Authority directions in the public interest and to issue regulations including setting licence fees. Additionally, CIMA officials can be called before the Legislative Assembly, and Cabinet can appoint an independent person to review the Authority's performance. Cabinet also appoints the Board of Directors, which comprises up to 10 members who serve fixed terms of three years and are eligible for reappointment. The law sets out the circumstances in which a director's appointment can be terminated. No member of the Cabinet or the Legislative Assembly may sit on the board.

As a statutory authority under the Public Management and Finance Law, the Monetary Authority is subject to an annual statutory audit and the Legislative Assembly approves its annual budget and funding. For this purpose, the Authority and the Government enter into annual operating and purchase agreements under which the Government pays for specified regulatory and currency services provided by CIMA. These agreements are used to evaluate its performance.

Investment income earned on the currency reserve assets is paid over to the Government after the Authority satisfies all the reserve requirements at year-end. Industry licensing and operating fees collected by CIMA also belong to the Government.

*Budget and Expenditure Controls* – CIMA’s budget is compiled based on input from the Authority’s management team and is reviewed and approved by the CIMA Board of Directors before submission to the Portfolio of Finance and Economics for further review and approval. Thereafter it forms a part of the Government’s Annual Plan & Estimates. The Authority cannot exceed the government-approved budgeted expenditure. The total budgeted outputs are billed monthly to the Government. The monthly financial statements are presented to the CIMA Board and contain budget comparatives along with explanation for variances. CIMA submits quarterly and annual reports as required by the PMFL. These contain a summary of the output performance and financial information, with comparatives to budget and prior year.

### **Relationship with the Private Sector**

The Monetary Authority’s accountability to the private sector has been formalized through a consultation process. This consultation must be done before issuing or amending rules or statements of principle or guidance regarding conduct of licensees and money laundering regulation. The process requires the Authority to explain the purpose of the measure, provide a cost/benefit analysis and allow a minimum of 30 days for comment. CIMA gives a written response to representations and forwards these, along with its response, to Cabinet.

Emergency exceptions are permitted. Final approval of rules and statements of guidance rests with Cabinet. The Authority is also required to make recommendations to Cabinet regarding its functions and laws, regulations or directions, and, if so directed by the Financial Secretary, to consult with the industry on these recommendations.

As part of its statutory obligation of transparency and fairness, the Monetary Authority has produced a *Regulatory Handbook*. This publication, and its subsequent updates and amendments, sets out the policies and procedures followed by the Authority, its committees, and officers in performing their regulatory and cooperative functions. It includes details of the consultation process with the private sector associations and approval by Cabinet.

### **International Cooperation**

One of the primary functions of the Monetary Authority is to cooperate with overseas regulatory authorities to enable them to carry out their regulatory functions. Since 2000 CIMA has processed almost 800 requests for assistance from 85 different regulators and has provided assistance in 99.5% of cases. In the few instances in which requests for assistance were not granted, the requesting parties were either unable or unwilling to provide appropriate undertakings required under Cayman Islands law with respect to the use and protection of confidentiality of the information provided.

The Authority is also authorized to enter into memoranda of understanding (MOUs) in the exercise of its cooperative function. The MOUs provide the framework to facilitate cross-border cooperation on information exchange, including timely access to, and verification of, information. Copies of the Authority’s current MOUs are available on the CIMA website.<sup>25</sup>

### **The Board of Directors and Other Committees**

The board may delegate any of its duties and powers except those expressly imposed or conferred on it by the law. It has appointed the Executive Committee, comprising local directors, to make decisions on enforcement actions and applications for securities investment business licences. It has also delegated authority for licensing and supervisory decisions and related matters to the Management Committee, which consists of the management of the Monetary Authority.

To promote operational effectiveness, five sub-committees of the board have been established. These are:

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<sup>25</sup> <http://www.cimoney.com.ky/section/regulatoryframework/default.aspx?id=150>

1. the **Audit and Finance** Committee, which deals with the Monetary Authority's financial position and results of operations; reviews the financial reporting process, the system of internal control, the audit process and any other financial and audit matters referred to it by either the board or management;
2. the **Policy, Strategy and Relations** Committee, which, together with the Structure and Governance Committee and management, develops CIMA's strategic plan and procedures, as well as new rules, statements of guidance and principle and policies in conjunction with management, and submits recommendations to the board;
3. the **Structure and Governance** Committee, which advises the board on issues pertaining to the organizational structure and the direction and control of the Authority;
4. the **Legislative and Legal** Committee, which reviews and reports on any legal, legislative and regulatory matters referred to it either by the board or management, and which keeps local and international legal, legislative and regulatory developments relevant to the Monetary Authority under review with management; and
5. the **Human Resources** Committee, which advises the board on terms and conditions of staff employment, the staff handbook, the overall manpower requirements of the Authority and issues pertaining specifically to its executives.

Ensuring the fitness and propriety of all regulated persons and entities is critical to the Monetary Authority's supervisory approach. In achieving this, status reports are prepared for the board every five to six weeks. These reports contain a listing of all licensing decisions taken, and all other recommendations provided to the Cabinet for consideration in relation to regulation and currency.

# CAYMAN ISLANDS MUTUAL FUNDS AND SECURITIES INVESTMENT BUSINESS REGIME

Although Cayman Islands legislation refers to “mutual funds,” the vast majority of the funds registered in this jurisdiction fall within the loose definition of a “hedge fund.” The regulatory oversight of hedge funds varies considerably around the world with many jurisdictions only recently enacting legislation.

## *Licensed Fund*

Generally, funds licensed under section 4(1)(a) of the Mutual Funds Law 2007 Revision (MFL) are more closely associated with retail mutual funds. In considering a licence application, the Authority evaluates the fund promoter’s reputation, the administrator’s expertise, fitness and propriety, and whether the fund’s business will be carried out properly.

## *Administered Fund*

For a fund to be authorized as an administered fund under section 4(1)(b) of the MFL, a CIMA licensed administrator (i.e.: the directors and managers of which have sufficient expertise to administer regulated funds and have been approved as fit and proper persons by the Authority) provides the Principal Office and ensures that the fund is run in a fit and proper manner.

## *Registered Fund*

For a fund to be authorized under section 4(3) of the MFL, it must either have a US\$100,000 minimum subscription or have its equity interest listed on a recognised stock exchange. The stock exchange (through its listing rules, for example) provides a form of enhanced supervision. This type of fund is considered a registered fund for statistical purposes.

Because of the statutory minimum subscription for funds registered under MFL section 4(3)(a)(i), the investor is considered to be sufficiently sophisticated or experienced in investing that it will perform its own due diligence and does not need any regulator to do so. In practice, the great majority of investors are professional investors and/or institutions. Most of these funds have a US\$1 million minimum subscription level, and they are usually distributed as a private placement, all of which further reinforce the non-public nature of these funds.

## *Difference in Approach for Licensed and Non-Licensed Regulated Funds*

While the Authority conducts due diligence prior to licensing a fund, it does not perform such due diligence on non-licensed or registered regulated funds. The regulatory approach for these funds is “lighter” because for each category of non-licensed regulated fund, there is an additional measure of indirect supervision: either another party provides oversight, or the investor is considered to be sophisticated and capable of performing its own due diligence.

The overriding regulatory objective for non-licensed regulated funds is to compel full and proper disclosure by fund operators so that investors are not misled about the nature of the risk taken. The objective is achieved chiefly by requiring these funds to prepare and file offering documents describing the equity interests in all material aspects such that a prospective investor may make an informed decision about subscribing without relying on the Authority. The principle of “buyer beware” is paramount, since it is the investor, and not the Authority, that is responsible for its own due diligence on a fund’s service providers, promoters, operators, strategy, risk-profile, track record, etc.

The MFL section 4(8) further provides that a current offering document (or its prescribed details) is not considered to be filed with the Authority if the operator or promoter is aware of

any change that materially affects any of the information contained in the offering document and if such amendments have not been filed with the Authority within 21 days.

*Mutual Fund Administrator*

In addition to authorising mutual funds, the Authority handles licence applications for mutual fund administrators and regulates their activities. Two categories of licences are issued: full administrators and restricted administrators.

*Securities Investment Business*

Under the Securities Investment Business Law (2004 Revision) (SIBL) a person who carries on securities investment business in any one or more of the activities set out in Schedule 2 is required to obtain a licence unless exempt from doing so.

***APPENDIX 3***

**AUDITED FINANCIAL  
STATEMENTS**